

H.B. 2568 (Armbrister) Relating to the terms of office and compensation of the commissioners of the Calhoun County Drainage District No. 11 and to the validation of certain actions of the district. (29-1) Washington "Nay" (30-0)

C.S.H.B. 2599 (Leedom) Relating to the determination and reporting of the number of full-time equivalent State employees. (29-1) Washington "Nay" (30-0)

H.B. 2621 (Henderson) Relating to the authority of the Texas Water Commission to authorize certain districts to proceed under federal bankruptcy law. (29-1) Washington "Nay" (30-0)

H.C.R. 182 (Uribe) Authorizing the National Hispanic Institute to use the House and Senate Chambers on July 27-31, 1987, and July 27-29, 1988. (vv)

BILLS REMOVED FROM LOCAL AND UNCONTESTED BILLS CALENDAR

<u>Number</u>	<u>Senators Removing</u>
H.B. 784	Lyon, Blake
H.B. 1134	Farabee, Blake

CONCLUSION OF SESSION FOR LOCAL AND UNCONTESTED BILLS CALENDAR

The Presiding Officer (Senator Blake in Chair) announced that the session for the consideration of the Local and Uncontested Bills Calendar was concluded.

CONGRATULATORY RESOLUTION

S.R. 658 - By Truan: Commending Gil Steinke.

ADJOURNMENT

Senator Blake announced at 8:55 a.m. that the Senate would adjourn until 9:30 a.m. today in accordance with a motion previously adopted by the Senate.

SIXTY-SEVENTH DAY (Thursday, May 28, 1987)

The Senate met at 9:30 a.m., pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Anderson, Armbrister, Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Farabee, Glasgow, Green, Harris, Henderson, Johnson, Jones, Krier, Leedom, Lyon, McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sims, Tejeda, Uribe, Washington, Whitmire, Zaffirini.

Absent-excused: Truan.

A quorum was announced present.

Senate Doorkeeper Jim Morris offered the invocation as follows:

Our Father, this morning we pray for these who come together to work for a better State. They gather in trust and with confidence that theirs is a good and worthy task.

We know that God governs in the affairs of men and women and ask that You give to these the stamina and the willingness to resolve those issues and questions that require resolution and answers. In Your name we pray, Amen.

On motion of Senator Brooks and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

LEAVE OF ABSENCE

Senator Truan was granted leave of absence for today on account of illness on motion of Senator Brooks.

REPORTS OF STANDING COMMITTEES

Senator Farabee submitted the following report for the Committee on State Affairs:

S.R. 643
H.B. 2481
H.B. 2364
H.B. 1852
H.B. 1858
H.B. 1861
H.B. 1818
H.B. 1854
H.B. 1853
H.B. 2371
H.B. 1989
H.B. 2608
H.B. 2370
H.B. 1855
H.B. 2276
H.B. 1956
H.B. 543
H.C.R. 172
H.B. 1596
H.B. 1608
H.B. 647
H.B. 1646
H.B. 1069
H.B. 2014
S.B. 722
H.C.R. 36
S.B. 1547
H.B. 273
H.B. 2216
H.B. 1564
H.B. 1353
C.S.H.B. 1857
H.B. 497 (Amended)
H.B. 1851
H.B. 2297 (Amended)

Senator Harris submitted the following report for the Committee on Economic Development:

H.B. 1937

H.B. 384
H.B. 1123
H.B. 1947 (Amended)
H.B. 2197
H.B. 2597
H.B. 1961 (Amended)
H.B. 1987
C.S.H.B. 1032

Senator Parker submitted the following report for the Committee on Education:

H.B. 1619

Senator Santiesteban submitted the following report for the Committee on Natural Resources:

H.B. 1839
S.R. 624
H.B. 1459 (Amended)
C.S.H.B. 2556
H.B. 2594
H.B. 2591
H.B. 2045
H.B. 2056
H.B. 1433
H.B. 944
H.C.R. 93
H.B. 2587

Senator Parmer submitted the following report for the Committee on Intergovernmental Relations:

C.S.H.B. 1931
C.S.H.B. 1889
C.S.H.B. 1514
C.S.H.B. 530

MESSAGE FROM THE HOUSE

House Chamber
May 28, 1987

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

S.J.R. 35, Proposing a Constitutional amendment to permit spouses to hold community property with right of survivorship.

H.B. 2582, Relating to the private practice of law of the judges of the county courts at law of Cameron County.

S.B. 191, Relating to child support for a child who is fully enrolled in a school in a program leading toward a high school diploma. (Amended)

S.B. 1441, Relating to voter registration; providing a penalty. (Amended)

S.B. 1266, Relating to the delivery of voter registration applications by certain volunteer deputy registrars. (Substituted)

S.J.R. 9, Proposing a constitutional amendment relating to the eligibility of a member of the legislature for another office. (Substituted)

S.C.R. 128, Congratulating Felix and Martha Jay Winn McDonald on their golden wedding anniversary.

The House refused to concur in Senate amendments to **H.B. 1912** and has requested the appointment of a Conference Committee to consider the differences between the two Houses: Berlanga, Chairman; Price, Lucio, Beauchamp and Edge.

The House refused to concur in Senate amendments to **H.B. 1169** and has requested the appointment of a Conference Committee to consider the differences between the two Houses: Gibson, Chairman; P. Hill, Laney, Guerrero and Sutton.

The House has concurred in Senate amendments to the following bills by a non-record vote:

H.B. 1356
H.B. 1632
H.B. 1642
H.B. 1758
H.B. 1865
H.B. 2151
H.B. 2165
H.B. 59
H.B. 83
H.B. 631
H.B. 655
H.B. 682
H.B. 975
H.B. 1079
H.B. 2514

The House has adopted the Conference Committee Report on **H.B. 4** by a record vote of 98 yeas, 43 nays, 0 present-not voting.

The House has adopted the Conference Committee Report on **H.J.R. 2** by a record vote of 141 yeas, 1 nay, 1 present-not voting.

The House has adopted the Conference Committee Report on **H.B. 113** by a non-record vote.

The House has adopted the Conference Committee Report on **S.B. 1125** by a non-record vote.

The House has adopted the Conference Committee Report on **S.B. 33** by a non-record vote.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

HOUSE BILLS AND RESOLUTION ON FIRST READING

The following bills and resolution received from the House were read the first time and referred to the Committee indicated:

H.B. 416, To Committee on Criminal Justice.

H.B. 958, To Committee on Finance.
 H.B. 1156, To Committee on Education.
 H.B. 1453, To Committee on Jurisprudence.
 H.B. 2256, To Committee on Education.
 H.B. 2299, To Committee on Health and Human Services.
 H.B. 2337, To Committee on Natural Resources.
 H.B. 2399, To Committee on State Affairs.
 H.B. 2601, To Committee on Natural Resources.
 H.B. 2611, To Committee on Intergovernmental Relations.
 H.C.R. 197, To Committee on State Affairs.
 H.B. 2582, To Committee on Intergovernmental Relations.

(Senator Farabee in Chair)

SENATE RESOLUTION ON FIRST READING

On motion of Senator Lyon and by unanimous consent, the following resolution was introduced, read first time and referred to the Committee indicated:

S.R. 668 by Lyon State Affairs
 Creating an Interim Study Committee on the Future of Telecommunications in Texas to draft a Telecommunications Policy for Texas.

SENATE RESOLUTION 623

Senator Harris offered the following resolution:

WHEREAS, The Senate of the State of Texas will lose a valued and beloved employee with the May retirement of Margaret Bacon; and

WHEREAS, A familiar presence in the Capitol corridors for 30 years, Mrs. Bacon has worked for State Senators Ray Roberts, Hubert Hudson, Franklin Spears, Charlie Wilson, and O. H. "Ike" Harris; and

WHEREAS, Besides mastering the fascinating labyrinth that is Texas politics, Mrs. Bacon is noted for her hard work and devotion to duty; and

WHEREAS, Throughout her distinguished legislative career, this seasoned pro has kindly imparted her vast knowledge to many fledgling legislative aides; and

WHEREAS, The daughter of John Thomas Wilson and Izora Hollibogh Wilson of Ellis County, Texas, Mrs. Bacon is one of 12 children; and

WHEREAS, A devoted mother to sons Robert Lee Bacon and Michael Wallace Bacon, she delights in the company of her three-year-old granddaughter, Katherine Brie Bacon; and

WHEREAS, A former member of the Booster Club at Reagan High School, she also donated her prodigious talents and efforts to the Parent-Teacher Association, Cub Scouts, Boy Scouts, and Little League; and

WHEREAS, Her generosity, thoughtfulness, and warm friendship are treasured memories in the hearts of many legislative staffers; and

WHEREAS, All Senate employees will sorely miss one of everybody's favorite people as they wish her a rich and rewarding future retirement; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 70th Legislature, hereby commend Margaret Bacon for 30 years of outstanding service to the State of Texas with the admonition that she never forget her many Capitol friends; and, be it further

RESOLVED, That a copy of this resolution be prepared for her as an expression of friendship, esteem, and affection from the Texas Senate.

The resolution was read.

On motion of Senator Blake and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

GUEST PRESENTED

Senator Harris escorted Mrs. Bacon to the President's Rostrum.

The Presiding Officer, Senator Farabee in the Chair, presented an enrolled copy of S.R. 623 adopted by the Senate on May 22, 1987, to Mrs. Bacon.

SENATE BILL 1191 WITH HOUSE AMENDMENT

Senator Brown called S.B. 1191 from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Floor Amendment - Perry

Amend S.B. 1191 as follows:

Amend SECTION 1, "(c)" to read as follows:

(c) Any person affected by any ruling, order, decision, ordinance, program, resolution, or other act of a city relating to water pollution control and abatement outside the corporate limits of such city adopted pursuant to this Section or any other statutory authorization may appeal such action to the commission or district court. The issue on appeal is whether the action or program is invalid, arbitrary, unreasonable, or ineffective in its attempt to control water quality or that its objective may be achieved through other means consistent with the overall water quality goals of the state. The commission or district court may overturn or modify the action of the city. If an appeal is taken from a commission ruling, the commission ruling shall be in effect for all purposes until final disposition is made by a court of competent jurisdiction so as not to delay any permit approvals.

The amendment was read.

Senator Brown moved that the Senate do not concur in the House amendment, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the Conference Committee on S.B. 1191 before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Brown, Chairman; Armbrister, Edwards, McFarland and Sims.

SENATE BILL 323 WITH HOUSE AMENDMENTS

Senator Montford called S.B. 323 from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Floor Amendment No. 1 - T. Smith

Amend S.B. 323 on page 4, line 25, and on page 5, line 1, by striking the words "state comptroller" and inserting the words "Texas Water Commission".

Floor Amendment No. 2 - C. Evans

Amend S.B. 323 by renumbering Sections 2-4 as Sections 4-6 and adding new Sections 2 and 3 to read as follows:

SECTION 2. Chapter 26, Water Code, is amended by adding Section 26.0271 to read as follows:

Sec. 26.0271. LIMITATIONS ON PERMITS: RESERVOIRS. (a) The commission may issue, amend, or renew a permit, subject to the limitations set out in Subsection (b) of this section for the discharge of waste or pollutants into a water-supply reservoir that was constructed prior to 1935 by a water control and improvement district, a substantial portion of which reservoir is within a county having a population of 800,000 or more, according to the most recent federal census, and has a conservation storage capacity greater than 175,000 acre feet.

(b) Permits for the discharge of waste or pollutants into reservoirs described in Subsection (a) of this section and discharges into all watercourses which are tributary to such reservoirs shall in addition to other limitations required by law meet all of the following limitations:

(1) the discharge shall not cause or result in any degradation of the existing water quality of the receiving body of water or stream, allowing for no mixing zone;

(2) the waste treatment process shall employ the most advanced and reliable waste treatment available under existing technology, regardless of costs; and

(3) at a minimum, the effluent from the waste treatment plant shall not exceed 5 milligrams/liter of biochemical oxygen demand and total suspended solids, 1 milligram/liter of total nitrogen, .5 milligrams/liter of total phosphorus, and free of active viruses.

SECTION 3. Section 2 of this Act applies only to an application for a permit, an amendment to a permit, or a renewal of a permit for the discharge of waste or pollutants filed on or after the effective date of this Act.

Floor Amendment No. 3 - Toomey

Amend S.B. 323 as follows:

On page 1, line 12, delete the word "Fund" and replace with "Account".

On page 4, line 12, delete the word "FUND" and replace with "ACCOUNT".

On page 4, line 14, delete the word "fund" and replace with "account".

On page 4, line 18, delete the word "FUND" and replace with "ACCOUNT".

On page 4, line 19, delete the word "FUND" and replace with "ACCOUNT".

On page 4, line 20, delete the word "fund" and replace with "account".

On page 5, line 3, insert after the word "the", "General Revenue Fund in the".

On page 5, line 4, delete the word "fund" and replace with "account".

On page 5, line 7, delete the word "Fund" and replace with "Account".

On page 5, line 7, add at the end of the line, "appropriated in accordance with the General Appropriations Act and"

Floor Amendment No. 4 - Toomey

Amend S.B. 323, line 13, page 1, by changing "fund" to "account".

The amendments were read.

Senator Montford moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the Conference Committee on S.B. 323 before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Montford, Chairman; Armbrister, Brown, Farmer and Santiesteban.

SENATE BILL 177 WITH HOUSE AMENDMENTS

Senator Lyon called S.B. 177 from the President's table for consideration of the House amendments to the bill.

On motion of Senator Lyon and by unanimous consent, consideration of House amendments to S.B. 177 was withdrawn.

SENATE BILL 504 WITH HOUSE AMENDMENTS

Senator Lyon called S.B. 504 from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Committee Amendment - Saunders

SECTION 1. Subchapter A, Chapter 62, Parks and Wildlife Code, as amended, is amended by adding Section 62.014 to read as follows:

Sec. 62.014. HUNTER EDUCATION PROGRAM. (a) In this section:

(1) "Firearm" means any device designed, made, or adapted to expel a projectile through a barrel by using the energy generated by an explosion or burning substance or any device readily convertible to that use.

(2) "Archery equipment" means a long bow that is capable of shooting a hunting arrow equipped with a broadhead hunting point for a distance of 130 yards.

(b) The department may establish and administer a statewide hunter education program. The program must include but is not limited to instruction concerning:

- (1) the safe handling and use of firearms and archery equipment;
- (2) wildlife conservation and management;
- (3) hunting laws and applicable rules and regulations; and
- (4) hunting safety and ethics, including landowners' rights.

(c) The department shall issue a certificate to a person who has successfully completed a hunter education course. The department shall prescribe the form of the certificate.

(d) If funds are available for its implementation the commission may establish a mandatory hunter education program and may require a person to have successfully completed a training course before the person may hunt with firearms or archery equipment as defined in Subsection (a) of this section in Texas. If the certificate is so required, the person must possess the certificate or other evidence of completion of the program while hunting with firearms or archery equipment as defined in Subsection (a) of this section. The commission may provide that residents or nonresidents who have successfully completed the same or a comparable hunter education course and possess a certificate or other evidence of completion have satisfied the requirements imposed under this subsection. The commission may establish a minimum age for participation in the program. Those persons who cannot participate in the hunter education program because they do not meet the minimum age or other requirements established by the commission can only hunt with firearms or archery equipment as defined in Subsection (a) of this section in Texas if they are accompanied by a person who is 17 years of age or older and licensed to hunt in Texas. Additionally, a person under 17 years of age hunting with a person licensed to hunt in Texas who is 17 years of age or older is not required to have certification under this Act.

The commission may implement the program by age group. Persons who are 17 years of age or older on September 1, 1988, or on the date on which a mandatory

hunter education course is implemented, whichever is later, are exempt from the requirements imposed under this subsection.

The department is responsible for offering mandatory hunter education courses that are accessible to those persons required to take this course. To this end, the department shall provide hunter education opportunities in each county of the state when a substantial number of residents request a class or at least once a year.

(c) The commission may maximize the utilization of volunteer instructors to minimize the costs of the course and is authorized to charge a fee to defray administrative costs. Fees collected under this subsection shall be deposited to the credit of the game, fish, and water safety fund.

(f) The department shall determine qualifications for instructors in the hunter education program and shall recruit, train, and certify instructors for the program.

(g) The department may cooperate with educational institutions, local governments, individuals, or organizations interested in hunter education in administering this section. The department may accept gifts, grants, and donations to be used in administering this section.

(h) The commission shall adopt rules to implement the hunter education program.

(i) The commission may establish an incentive program to encourage citizens to participate in the program as instructors.

(j) A person who violates any provision of this section or any proclamation or regulation of the commission issued under the authority of this section commits an offense.

(k) If the commission requires a person to possess a certificate issued under this section and if the person is charged with a Class C Parks and Wildlife Code misdemeanor for failing to possess the required certificate, the person may present to the court not later than the 10th day after the date of the alleged offense an oral request or written motion to take a hunter safety training course.

(l) If a person requests a hunter safety training course as provided by Subsection (d) of this section, the court shall defer proceedings and allow the person 90 days to present written evidence that, after being charged with failure to possess the certificate, the person has successfully completed a hunter safety training course approved by the department. If a person successfully completes the course and the evidence presented is accepted by the court, the court shall dismiss the charge.

(m) It is a defense to prosecution under this section for failure to possess a certificate that the person charged produces in court a certificate issued to that person that was valid on the date of the alleged offense.

SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Floor Amendment - Staniswalis

Amend C.S.S.B. 504, on third reading, on page 3, line 17, between “fee” and “to”, by inserting “not to exceed \$15”.

The amendments were read.

Senator Lyon moved to concur in the House amendments.

The motion prevailed viva voce vote.

SENATE BILL 919 WITH HOUSE AMENDMENT

Senator Tejeda called S.B. 919 from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Committee Amendment - Garcia

Amend S.B. 919 by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Title 116, Revised Statutes, as amended, is amended by adding Article 6701d-24 to read as follows:

Art. 6701d-24. ADMINISTRATIVE ADJUDICATION OF PARKING OFFENSES

Sec. 1. APPLICATION. A municipality may declare the violation of city ordinances relating to parking and stopping vehicles to be civil offenses and prescribe civil fines pursuant to the procedures for administrative adjudication as provided by this article.

Sec. 2. ADOPTION OF ORDINANCE. (a) A municipality may adopt an ordinance establishing an administrative adjudication hearing procedure. The ordinance must provide:

(1) a period for persons charged with violating a parking or stopping ordinance to have a hearing; and

(2) for appointment of hearing officers who have authority to administer oaths and to issue orders compelling the attendance of witnesses and the production of documents.

(b) An order compelling the attendance of witnesses or the production of documents may be enforced by a municipal court.

Sec. 3. PRESUMPTION OF OWNERSHIP. In an administrative adjudication of an offense under this article, it is presumed that the registered owner of the motor vehicle that is the subject of the administrative hearing is the person who parked or stopped the vehicle at the time and place of the offense charged, and that a State Department of Highways and Public Transportation computer-generated record of the registered vehicle owner is prima facie evidence of its contents.

Sec. 4. HEARING. (a) The citation or summons must provide information as to the time and place of an administrative adjudication hearing. The failure of any person charged with an offense to appear at the hearing is considered an admission of liability for the charged offense. The citation or summons must contain a notification that the person charged with a parking or stopping offense has the right of an instant hearing, which the issuing peace officer or authorized parking enforcement agent shall not be required to attend. The original or any copy of the summons or citation is a record kept in the ordinary course of business of the municipality and is rebuttable proof of the facts it contains.

(b) The hearing officer shall issue an order stating whether or not the person charged is liable for violation of the parking or stopping ordinance and the amount of any fine, costs, or fee assessed against him. The order may be filed with the clerk or secretary of the city.

Sec. 5. ENFORCEMENT. An order filed under Subsection (b) of Section 4 of this article may be enforced by:

(1) impounding the vehicle; however, no vehicle may be impounded unless the offender has committed 3 or more offenses in any calendar year;

(2) placing a device that prohibits movement of a motor vehicle on the vehicle that is the subject of the order filed;

(3) added fine if not paid within a specified time;
 (4) denial of parking permits; or
 (5) refusing to allow the registration of the vehicle as provided by Subsection (a-3), Section 2, Chapter 88, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929 (Article 6675a-2, Vernon's Texas Civil Statutes).

Sec. 6. RECORDS. An order or decision of a hearing officer filed with the clerk or secretary of the city must be kept in a separate index and file. These orders or decisions may be recorded using computer printouts, microfilm, microfiche, or other similar data processing techniques.

Sec. 7. FINES, COSTS, AND FEES. The ordinance must provide for the amount and disposition of civil fines, costs, and fees.

Sec. 8. APPEAL. (a) A person determined by the hearing officer to be in violation of a parking or stopping ordinance may appeal this determination to a municipal court. The appeal is instituted by filing, not later than the 30th day after the filing of the hearing officer's order, a petition with the clerk of the court along with payment of the costs required by law for municipal court.

(b) After filing a petition for appeal, the municipal clerk shall schedule a hearing and notify all parties of the date, time, and place of the hearing.

(c) Service of notice of appeal under this section does not stay the enforcement and collection of the judgment unless the person who files the appeal posts bond before filing notice of appeal with the agency of the municipality designated by ordinance to accept payments for violations of parking and stopping ordinances.

Sec. 9. This article shall apply to any city having a population in excess of 200,000 according to the most recent federal census, and which operates under a council-manager form of government.

SECTION 2. This Act takes effect September 1, 1987, and applies only to parking or stopping offenses that occur on or after that date. An offense that occurs before the effective date of this Act is governed by the law in effect when the offense occurred and the former law is continued in effect for that purpose. For purposes of this section, an offense occurs before the effective date of this Act if any element of the offense occurs before that date.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

Senator Tejeda moved to concur in the House amendment.

The motion prevailed viva voce vote.

RECORD OF VOTE

Senator Glasgow asked to be recorded as voting "Nay" on the motion to concur in the House amendment.

SENATE BILL 260 WITH HOUSE AMENDMENTS

Senator Henderson called S.B. 260 from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Committee Amendment - Hury

Amend S.B. 260 by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Part Seven, Texas Miscellaneous Corporation Laws Act (Article 1302-7.01 et seq., Vernon's Texas Civil Statutes), is amended by adding Article 7.06 to read as follows:

Art. 7.06. LIMITATION OF LIABILITY. A. In this article:

(1) "Articles of incorporation" means the articles of incorporation or association of a corporation, the charter of a corporation, or any other document required to organize a corporation under the laws of this state.

(2) "Corporation" means any corporation organized under the Texas Business Corporation Act, the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes), The Texas Banking Code of 1943 (Article 342-1.01 et seq., Vernon's Texas Civil Statutes), the Insurance Code, the Electric Cooperative Corporation Act (Article 1528b, Vernon's Texas Civil Statutes), the Telephone Cooperative Act (Article 1528c, Vernon's Texas Civil Statutes), any association organized under the Texas Savings and Loan Act (Article 852a, Vernon's Texas Civil Statutes), a nonprofit water supply corporation organized under Chapter 76, Acts of the 43rd Legislature, 1st Called Session, 1933 (Article 1434a, Vernon's Texas Civil Statutes), and, to the extent permitted by federal law, any federally chartered bank or savings and loan association.

(3) "Director" means an individual who is a director of a corporation.

B. The shareholders or members of a corporation may amend the articles of incorporation to provide that a director of the corporation is not liable to the corporation or its shareholders or members for monetary damages for an act or omission in the director's capacity as a director, except that this article does not eliminate or limit the liability of a director for:

(1) a breach of a director's duty of loyalty to the corporation or its shareholders or members;

(2) an act or omission not in good faith or that involves intentional misconduct or a knowing violation of the law;

(3) a transaction from which a director received an improper benefit, whether or not the benefit resulted from an action taken within the scope of the director's office;

(4) an act or omission for which the liability of a director is expressly provided for by statute; or

(5) an act related to an unlawful stock repurchase or payment of a dividend.

SECTION 2. This Act applies only to an act or omission occurring on or after the effective date of this Act. An act or omission occurring before the effective date of this Act is governed by the law in effect when the act or omission occurred, and that law is continued in effect for that purpose.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Floor Amendment - Hury

Amend C.S.S.B. 260 as follows:

(1) On page 1, line 24, insert the following after the comma and before "and": "any credit union organized under the Texas Credit Union Act (Article 2461-1.01, Vernon's Texas Civil Statutes)".

(2) On page 2, line 1, strike "any federally chartered bank or savings and loan association." and substitute "any federally chartered bank, savings and loan association or credit union."

The amendments were read.

Senator Henderson moved to concur in the House amendments.

The motion prevailed viva voce vote.

RECORD OF VOTE

Senator Farabee asked to be recorded as voting "Present-not voting" on the motion to concur in the House amendments.

SENATE BILL 1239 WITH HOUSE AMENDMENTS

Senator Green called S.B. 1239 from the President's table for consideration of the House amendments to the bill.

On motion of Senator Green and by unanimous consent, consideration of House amendments to S.B. 1239 was withdrawn.

SENATE BILL 85 WITH HOUSE AMENDMENTS

Senator Leedom called S.B. 85 from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Committee Amendment No. 1 - Guerrero

Section 1, page 1, line 8, after "agencies" insert the words "in the preparation of the information requested by subsection (b) of this article"

Section 2, page 4, line 13, change subsection (b) to read as follows:

"The report shall be compiled from the financial information requested by the comptroller pursuant to Article 4345a, Texas Revised Civil Statutes, until it can be prepared from information contained in a fully operational uniform automated statewide accounting and reporting system."

Committee Amendment No. 2 - Guerrero

Amend S.B. 85 by adding at the end of Subsection (a) of Art. 4345a, as added by SECTION 1 of the bill, the following language:

In order that the uniform system of financial accounting and reporting shall provide for maximum consistency with the national reporting system for higher education, the uniform system shall incorporate insofar as possible the provisions of the financial accounting and reporting manual published by the National Association of College and University Business Officers. The accounts of the institutions shall be maintained and audited in accordance with the approved reporting system.

The amendments were read.

Senator Leedom moved to concur in the House amendments.

The motion prevailed viva voce vote.

SENATE BILL 779 WITH HOUSE AMENDMENT

Senator Santiesteban called S.B. 779 from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Floor Amendment - Millsap

Amend S.B. 779 as follows:

On page 4, between lines 7 and 8, insert a new Subsection (d) to read as follows:

(d) Except for Section 26.351 of this subchapter, in-ground hydraulic lifts that use a compressed air/hydraulic fluid system and hold less than 100 gallons of hydraulic oil, if exempt by the federal Environmental Protection Agency, are exempt under this subchapter.

The amendment was read.

Senator Santiesteban moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Truan.

SENATE BILL 198 WITH HOUSE AMENDMENT

Senator Glasgow called **S.B. 198** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Floor Amendment - Hammond

Amend **S.B. 198** as follows:

(1) At the end of line 10, amend Sec. 17.026 to read as follows: after "pending"; delete "." and add:

" , or by the party or by the representative of the party."

The amendment was read.

Senator Glasgow moved to concur in the House amendment.

The motion prevailed viva voce vote.

SENATE BILL 819 WITH HOUSE AMENDMENTS

Senator Armbrister called **S.B. 819** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Floor Amendment No. 1 - Saunders

Amend Section 1, Page 2, Line 8, by striking: "the commission shall accept the Licensing Agency's position." and inserting:

"the disputed areas shall be resolved by the board of the Licensing Agency."

Floor Amendment No. 2 - Kuempel

Amend **S.B. 819**, Section 1, subsection (d)(1), line 24, after the word "Agency" and before the comma add the following:

"as confirmed by the Board of the Licensing Agency"

The amendments were read.

Senator Armbrister moved to concur in the House amendments.

The motion prevailed viva voce vote.

SENATE RULE 74a SUSPENDED

On motion of Senator Johnson and by unanimous consent, Senate Rule 74a was suspended as it relates to the House amendment to **S.B. 1424**.

SENATE BILL 1424 WITH HOUSE AMENDMENT

Senator Johnson called **S.B. 1424** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Floor Amendment - Hammond

Amend **S.B. 1424** on page 7, between lines 12 and 13, by inserting the following and renumbering subsequent sections accordingly:

SECTION 7. Sections 1, 2, 3, 4, 6, 7, and 8, Chapter 1081, Acts of the 68th Legislature, Regular Session, 1983, are amended to read as follows:

Sec. 1. GENERAL PROVISIONS. (a) Pursuant to Article XVI, Section 59, of the Texas Constitution, a conservation and reclamation district designated as Dallas County Levee Improvement District No. 17 was established by the Commissioners Court of Dallas County and was converted to Dallas County Municipal Utility District No. 2 by order of the Texas Water Commission.

(b) The Dallas County Municipal Utility District No. 2 is renamed "Dallas County Flood Control District No. 1" and is declared to be a validly existing conservation and reclamation district.

(c) In this Act, "district" means the Dallas County Flood Control District No. 1.

(d) The district is declared to be a governmental agency and body politic and corporate and may exercise the powers, rights, privileges, and functions as provided by Article XVI, Section 59, of the Texas Constitution; Chapter 57, Water Code; and this Act. If any provision of the general law is in conflict or inconsistent with this Act, this Act prevails.

(e) The district may construct and maintain levees and other improvements on, along, and contiguous to rivers, creeks, streams, and drainage courses for the purposes of:

(1) reclaiming land from overflow from that water;

(2) controlling and distributing the water of rivers and streams by straightening and improving the rivers and streams;

(3) draining and improving the land; and

(4) preventing pollution of the water.

(f) The district may build, construct, complete, carry out, maintain, protect, and, in case of necessity, add to and rebuild all works and improvements within its boundaries to accomplish any plan of reclamation adopted for or on behalf of the district. The district may enter into necessary contracts, employ necessary persons, and take any actions necessary to carry out this subsection.

(g) In addition to any other requirements, a reclamation plan adopted by the district after June 1, 1987, an amendment to a district reclamation plan adopted before or after June 1, 1987, or a project of the district that is not included in the district's reclamation plan must be approved by the city of Grand Prairie and the city of Irving before the plan of reclamation, amendment, or project takes effect.

(b) The district may exercise the rights, powers, purposes, authority, and functions provided by Chapter 135, Acts of the 62nd Legislature, Regular Session, 1971 (Article 8280-477, Vernon's Texas Civil Statutes), but if any provision of that Act is in conflict or inconsistent with this Act, this Act prevails. The provisions of Chapter 135, Acts of the 62nd Legislature, Regular Session, 1971 (Article 8280-477, Vernon's Texas Civil Statutes), that are not in conflict or inconsistent with this Act continue in effect.]

Sec. 2. BOUNDARIES. (a) On and after the effective date of this Act the district shall be designated as the Dallas County Flood Control District No. 1 of Dallas County, Texas. The district includes all property located within the redefined boundaries of the district as filed in the deed records of Dallas County, Texas, on the effective date of this Act. Those boundaries are validated.

(b) Subject to the requirements of Subsection (d) of this section, the following real property is excluded from the district: Towne Lake Phase II Addition to the City of Irving Block 1, Lots 1 through 19; Block 2, Lots 1 through 6 and 9 through 69; Block 3, Lots 1 through 28; Towne Lake Phase III Addition to the City of Irving Block 1, Lots 1 through 8; Block 2, Lots 1 through 68; Block 3, Lots 1 through 38; Block 4, Lots 1 through 17; and Towne Lake Place Addition to the City of Irving, Block A, Lots 1 and 2. Effective July 1, 1987, the excluded property may not be subject to the levy of ad valorem taxes by the district and it shall be removed from the tax rolls of the district at that time.

(c) The legislature finds that the boundaries and field notes of the district form a closure. If any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is made in the field notes, it in no way affects the organization, existence, and validity of the district; the right of the district to issue any type of bonds or refunding bonds for the purposes for which the district is created, or to pay the principal of and interest on the bonds; the right of the district to assess, levy, and collect taxes; or the legal operation of the district or its governing body.

(d) Before the territory described in Subsection (b) of this section is disannexed from the district, the district must give written notice of the proposed disannexation by certified mail, return receipt requested, to the city manager of the city of Irving and the city manager of the city of Grand Prairie, and each city must approve the disannexation as provided by this subsection. Each city has a period of 30 days from the date notice is received by that city to either approve or disapprove the disannexation of the territory, and each city shall express its approval or disapproval through a resolution adopted by the city council of that city. If a city fails to adopt a resolution within the 30-day period as provided by this subsection, the disannexation is deemed approved by that city. If either of the cities disapproves the disannexation of the territory, the territory is not disannexed, but subsequent attempts to disannex the territory may be made and the territory may be disannexed in the manner provided by this subsection.

Sec. 3. BOARD OF DIRECTORS; DISTRICT ADMINISTRATION. (a) The powers of the district are exercised by a board of five directors. Each director serves for a term of two years, and until a successor is appointed and qualified. The city of Irving shall appoint three directors and the city of Grand Prairie shall appoint two directors.

(b) If a director dies, resigns, or ceases to possess the qualifications required for office, the board of directors shall declare the office vacant and the city that appointed the director whose position became vacant shall appoint a successor to fill the unexpired term.

(c) A director must own land within the district subject to taxation at the time of his qualification as a director, must take the constitutional oath of office, and shall execute a bond in the amount of \$5,000 for the faithful performance of his duties. The cost of the bond shall be paid by the district. The bond shall be approved by the board of directors and filed in the office of the county clerk of Dallas County.

(d) A majority of the members of the board of directors constitute a quorum for the transaction of business of the district, but no official action of the board is valid without the affirmative vote of a majority of the members of the board.

(e) The board of directors may designate one or more directors to execute on behalf of the district all contracts, construction or otherwise, sign checks, or handle

any other matter entered into by the board as shown in the official minutes of the district.

(f) The board of directors shall organize and elect a president, vice-president, and secretary. The board may authorize the president to sign all orders or take other action.

(g) An order adopted or action taken at a meeting of the board of directors at which the president is absent may be signed by the vice-president, or the board may authorize the president to sign the order or action at a later time.

(h) The secretary of the board of directors is responsible for keeping accurate minutes and certifying any action taken by the board.

(i) Each member of the board of directors is entitled to receive \$25 for each day he spends on district work but may not receive an amount that exceeds \$200 in any calendar month. A director shall be reimbursed for actual expenses approved by the board.

(j) The board of directors shall hold regular and special meetings at the times and on the dates the board determines.

(k) The board of directors shall keep and maintain complete and accurate accounts and records. The board shall keep the records at the district's principal office and the records shall be open to public inspection at reasonable times [Each director serving at the time of the passage of this Act shall continue to serve for his elected term. The district's directors shall subsequently be elected, or appointed to fill an unexpired term, as the case may be, for the term of office, in the manner, and with the qualifications and official bond required by Chapter 135, Acts of the 62nd Legislature, Regular Session, 1971 (Article 8280-477, Vernon's Texas Civil Statutes), except there shall be only five directors].

Sec. 4. BONDS AND TAXES. (a) The district may issue and sell all unissued bonds and may levy and collect an ad valorem tax on all taxable property in the district to pay the principal of and interest on the bonds, as authorized at an election held in the district on June 12, 1982.

(b) The district shall assume and be responsible for all outstanding indebtedness and existing contracts of its predecessor districts and may continue to levy and collect maintenance taxes previously authorized at an election held in the district.

(c) The district may issue bonds and incur other indebtedness in the manner provided by Section 10, Chapter 135, Acts of the 62nd Legislature, Regular Session, 1971.

(d) The district shall file with the city of Grand Prairie and the city of Irving notice of intent to issue bonds or other indebtedness not later than the 20th day before the date of issuance. The notice must state the purpose for which the bonds or other indebtedness are issued and the approximate principal amount of the bonds or indebtedness. Before the district issues bonds or other indebtedness in an amount of more than \$500,000, the district must obtain the approval of the city council of the city of Grand Prairie and the approval of the city council of the city of Irving. A city council may give its approval by resolution.

(e) Bonds or other indebtedness may not be sold at discount from the principal amount without the prior approval of the city of Grand Prairie and the city of Irving.

(f) This Act may not be construed as a lending or pledge of the credit of the city of Grand Prairie or the city of Irving to the bonds and other indebtedness of the district, and the city of Grand Prairie and the city of Irving are in no way obligated to pay any bonds, indebtedness, or other debt of the district.

Sec. 6. BOND ANTICIPATION NOTES. (a) In addition to all other methods of acquiring funds for district purposes, the district may issue bond anticipation notes for any purpose for which bonds have been voted or may be

issued to refund outstanding bond anticipation notes and the interest on the notes being refunded.

(b) Notes issued under this section may bear interest at any rate not to exceed the maximum interest rate applicable to the district's authorized bonds, and shall mature within one year of the date they are issued.

(c) The maximum amount of notes issued under this section outstanding at any one time may not exceed \$500,000 unless the district obtains the prior consent of the cities [city] of Grand Prairie and Irving[~~Texas~~].

(d) Notes issued under this section shall be paid only from the proceeds of the sale of bonds by the district.

Sec. 7. **PROHIBITED FUNCTIONS.** The district is expressly prohibited from engaging in any park, water service, wastewater service, police, or fire-fighting functions or spending any district funds or issuing bonds for those purposes.

Sec. 8. **PUBLIC BENEFIT.** The legislature finds that the land and other property included within the boundaries of the district will be benefited by the works and projects that are to be accomplished by the district and by the powers granted pursuant to Article XVI, Section 59, of the Texas Constitution, and that the district was created to serve a public use and benefit [EMERGENCY: The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted].

SECTION 8. Chapter 1081, Acts of the 68th Legislature, Regular Session, 1983, is amended by adding Sections 9, 10, 11, 12, 13, 14, and 15 to read as follows:

Sec. 9. **EMINENT DOMAIN.** (a) The district may exercise the power of eminent domain within Dallas County, Texas, to enable it to acquire the fee simple title, easement, or right-of-way to, over, and through any and all land, water, or land under water, except land and property used for cemetery purposes, inside, bordering on, adjacent or opposite to, or outside the district that has a direct effect on the accomplishment of the purposes for which the district is created and that is necessary for making, constructing, and maintaining all levees and other improvements for the improvement of rivers, creeks, streams, or drainage courses inside or bordering on the district and to prevent overflows.

(b) The power of eminent domain must be exercised by the district in the manner provided by Chapter 21, Property Code, except that the district is not required to give bond for appeal or bond for costs in a condemnation suit to which it is a party and is not required to deposit double the amount of any award in any suit.

(c) If the district, in the exercise of the power of eminent domain, makes necessary the relocation, raising, lowering, rerouting, change in grade, or alteration of the construction of any highway, railroad, electric transmission or distribution line, telephone or telegraph properties and facilities, or pipeline, all necessary relocations, raising, lowering, rerouting, change in grade, or alteration of construction shall be accomplished at the sole expense of the district, unless the owner of the facility relocated or altered has an existing legal obligation to pay the expenses. The term "sole expense" means the actual cost of relocation, raising, lowering, rerouting, change in grade, or alteration of construction, to provide comparable replacement without enhancement of facilities, after deducting the net salvage value derived from the old facility.

(d) In addition to any other requirements, the district may not exercise the power of eminent domain without the prior approval by resolution of the city council of Grand Prairie if the property to be condemned is within the city limits of Grand Prairie or the city council of Irving if the property to be condemned is within the city limits of Irving.

Sec. 10. CONTRACTS. The district may enter into contracts with the United States or any of its agencies, with the city of Grand Prairie, with the city of Irving, or with individuals, corporations, public bodies, or any other entity for the maintenance of or construction of any facility or improvement authorized by this Act without the necessity of bonds being voted, and an election is not required of the district to approve the contracts.

Sec. 11. DEPOSITORY. (a) The board of directors shall designate one or more banks to serve as depository for district funds.

(b) District funds, other than those transmitted to a bank of payment for bonds issued by the district, shall be deposited as received in the depository.

(c) If district funds are deposited in a depository not insured by the Federal Deposit Insurance Corporation, the funds must be secured in the manner provided by law for the security of county funds.

(d) The board of directors may appoint a district treasurer. The person appointed as treasurer shall execute a bond in an amount determined by the board, payable to the district conditioned on the faithful performance of the treasurer's duties.

Sec. 12. DISTRICT OFFICE. The board of directors shall establish and maintain a district office in the district. The district may establish a second district office outside the district. Either or both district offices may be a private residence, office, or dwelling, and the private residence, office, or dwelling is declared a public place for matters pertaining to the district's business.

Sec. 13. ANNEXATION. The district may annex property to the district in the manner provided by Sections 54.711 through 54.727, Water Code. Before the annexation of land to the district, the district must obtain the approval of the city of Grand Prairie if the land to be annexed is within the city limits of Grand Prairie, or the city of Irving if the land to be annexed is within the city limits of Irving.

Sec. 14. LEGISLATIVE DECLARATION. The legislature declares the creation and operation of the district to be essential to accomplish the purpose of Article XVI, Section 59(d), of the Texas Constitution.

Sec. 15. ROADWAY AND UTILITY CONSTRUCTION. Any road, street, or utility construction of the district begun on or after the effective date of this section within the city limits of the city of Grand Prairie or within the city limits of the city of Irving must comply with standards for construction adopted by that city.

SECTION 9. (a) The two directors of the Dallas County Flood Control District No. 1 elected on April 4, 1987, serve until two directors are appointed to and have qualified for those positions. One director shall be appointed by the city of Grand Prairie and one director shall be appointed by the city of Irving. The appointments may not be made before the date the United States Department of Justice indicates that no objections will be interposed under the federal Voting Rights Act (42 U.S.C. Sections 1971 et seq., 1973), but must be made within 15 days after that date.

(b) The three directors serving on the effective date of this Act who have terms of office that expire in April 1988 shall continue in office and serve for the terms for which they were elected and until their successors are appointed and have qualified for office. The successors to those directors shall be appointed to take office on April 3, 1988, with one director being appointed by the city of Grand Prairie and two directors being appointed by the city of Irving.

SECTION 10. Not later than the 10th day after the effective date of this Act, the Dallas County Flood Control District No. 1 shall mail the notice of proposed disannexation in accordance with Section 2(d), Chapter 1081, Acts of the 68th Legislature, Regular Session, 1983.

The amendment was read.

Senator Johnson moved that the Senate do not concur in the House amendment, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the Conference Committee on **S.B. 1424** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Johnson, Chairman; Lyon, McFarland, Sims and Uribe.

(Senator Brooks in Chair)

SENATE BILL 342 WITH HOUSE AMENDMENT

Senator Farabee called **S.B. 342** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Floor Amendment - Hinojosa

Amend **S.B. 342** by adding the following subsection (C) after line 16 on page 1:

(C) an offer of merchandise with a value not greater than \$25, made by the proprietor of a bona fide carnival contest conducted at a carnival sponsored by a nonprofit religious, fraternal, school, law enforcement, youth, agricultural, or civic group, if the person to receive the merchandise from the proprietor is the person who performs the carnival contest.

The amendment was read.

Senator Farabee moved to concur in the House amendment.

The motion prevailed viva voce vote.

CONFERENCE COMMITTEE ON HOUSE BILL 367

Senator Green called from the President's table for consideration at this time the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 367** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the Conference Committee on **H.B. 367** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Green, Chairman; Anderson, Tejeda, Washington and Whitmire.

CONFERENCE COMMITTEE ON HOUSE BILL 1866

Senator Jones called from the President's table for consideration at this time the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 1866** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the Conference Committee on H.B. 1866 before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Jones, Chairman; Blake, McFarland, Montford and Sims.

SENATE BILL 687 WITH HOUSE AMENDMENTS

Senator Farabee called S.B. 687 from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Floor Amendment No. 1 - Toomey

Amend S.B. 687 as follows:

- (1) On page 4, line 9, strike "The" and substitute:
"(a) Except as provided by Subsection (b), the [The]".
- (2) On page 4, between lines 25 and 26, insert:
(b) A statutory county court judge or a retired or former statutory county court judge may not be assigned to hear a matter pending in a district court outside the county of the judge's residence.
- (3) On page 14, line 9, strike "The" and substitute:
"(a) Except as provided by Subsection (b), the [The]".
- (4) On page 15, between lines 6 and 7, insert:
(b) A statutory county court judge or a retired or former statutory county court judge may not be assigned to hear a matter pending in a district court outside the county of the judge's residence.

Floor Amendment No. 2 - Rudd, et al

Amend S.B. 687 as follows:

- (1) On page 3, line 3, strike "\$7,500" and substitute "\$10,000".
- (2) On page 12, line 19, strike "\$7,500" and substitute "\$10,000".

Floor Amendment No. 3 - C. Evans

Amend S.B. 687 on page 23, between lines 2 and 3, by inserting a new Article III to read as follows and renumbering the subsequent article and sections within that article appropriately:

ARTICLE III. FORMER DISTRICT JUDGE

SECTION 3.01. Chapter 74, Government Code, is amended by adding Section 74.0311 to read as follows:

Sec. 74.0311. FORMER DISTRICT JUDGE. A former district judge may not be assigned as a visiting judge under this chapter or under the Court Administration Act (Article 200a-1, Vernon's Texas Civil Statutes) if the former district judge has been defeated for election as a district judge.

SECTION 3.02. This article applies to assignments of judges as visiting judges under Chapter 74, Government Code, or the Court Administration Act (Article 200a-1, Vernon's Texas Civil Statutes) made on or after the effective date of this Act. An assignment made before the effective date of this article is covered by the law in effect at the time of the assignment and that law is continued in effect for that purpose.

Floor Amendment No. 4 - Perez

Amend S.B. 687 on page 23 between lines 2 and 3 by inserting a new Article III to read as follows and renumbering the following articles and sections accordingly:

ARTICLE III. FAMILY LAW MASTERS

SECTION 3.01. Subchapter A, Chapter 54, Government Code, is amended to read as follows:

SUBCHAPTER A. FAMILY LAW MASTERS

Sec. 54.001. **APPOINTMENT.** (a) A judge of a district court or other court having jurisdiction of suits ~~[affecting the parent-child relationship]~~ under Title 1, 2, or 4, Family Code, may appoint either a full-time or a part-time master to perform the duties authorized by this subchapter if the commissioners court of a county in which the court has jurisdiction authorizes the employment of a master.

(b) If a court has jurisdiction in more than one county, a master appointed by that court may serve only in a county in which the commissioners court has authorized the master's appointment.

(c) If more than one district ~~[court]~~ or other court having jurisdiction of suits under Title 1, 2, or 4, Family Code, ~~[affecting the parent-child relationship]~~ has jurisdiction in a county, the commissioners court may authorize the appointment of a master for each court or may authorize one or more masters to share service with two or more courts.

(d) If a master serves more than one court, the master's appointment must be made with the unanimous approval of all the judges under whom the master serves.

(e) This section shall not apply to masters appointed under Section 14.82, Family Code.

Sec. 54.002. **QUALIFICATIONS.** To be eligible for appointment as a master, a person must meet the requirements and qualifications to serve as a judge of the court or courts to which the master is appointed ~~[be:~~

~~[(1) a resident of this state; and~~

~~[(2) licensed to practice law in this state].~~

Sec. 54.003. **COMPENSATION.** (a) A master ~~shall be paid a~~ [is entitled to the] salary determined by the commissioners court of the county in which the master serves.

(b) If a master serves in more than one county, the master ~~shall be paid~~ [is entitled to] a salary as determined by agreement of the commissioners courts of the counties in which the master serves.

(c) The master's salary is paid from the county fund available for payment of officers' salaries.

(d) This section does not apply to a master appointed under Section 14.82, Family Code.

Sec. 54.004. **TERMINATION OF SERVICES.** (a) A master who serves a single court serves at the will of the judge of that court.

(b) The services of a master who serves more than two courts ~~[one court]~~ may be terminated by a majority vote of all the judges of the courts which ~~[whom]~~ the master serves.

(c) The services of a master who serves two courts may be terminated by either of the judges of the courts which the master serves.

(d) This section shall not apply to masters appointed under Section 14.82, Family Code.

Sec. 54.005. **CASES** ~~[CASE]~~ **THAT MAY BE REFERRED.** (a) The judge of a court having a master appointed may refer to the master any aspect of a civil case involving a matter over which the referring court has jurisdiction under Title 1, 2, or 4, Family Code, or under Chapter 46 or 76, Human Resources Code, and,

after notice to all parties of the time and place of hearing, the master may preside over any hearing including the following:

(1) a hearing for a temporary order in all actions or suits for support by one spouse against another;

(2) a motion or suit to modify a temporary or final order;

(3) a suit affecting the parent-child relationship involving temporary orders;

(4) an application for a temporary injunction involving temporary possession or use of property;

(5) a habeas corpus proceeding, including any necessary hearing authorized by the Family Code;

(6) a motion to transfer;

(7) a motion for contempt for failure or refusal to obey a temporary or final order;

(8) an action brought under Chapter 21, Family Code;

(9) an action for the protection of the family;

(10) a matter on which the parties agree;

(11) a matter in which a party is entitled to a default judgment;

(12) an action brought under Chapter 46 or 76, Human Resources Code;

(13) a divorce action in which a waiver of citation is on file; and
(14) any other matter referred by the judge that is in the jurisdiction of the court, including pretrial motions, discovery, summary judgments, and other matters governed by the Texas Rules of Civil Procedure.

(b) The judge of a court having a master appointed may also refer to the master a trial on the merits over which the master may preside unless one or more parties files a written objection to the master hearing the trial. If an objection is filed, the trial on the merits shall be heard by the referring court. A trial on the merits is any final adjudication from which an appeal may be taken to a court of appeals.

(c) The referring court may not allow a master to conduct a contested trial on the merits to terminate parental rights unless the affected parties give written consent to the contested trial being conducted by the master. Except in cases in which written consent is given by the affected parties to a contested trial on the merits, any order terminating parental rights issued pursuant to a master's report resulting from the contested trial is void.

(d) On appointment of a master, any pending or future cases under Title 1, 2, or 4, Family Code, or under Chapter 46 or 76, Human Resources Code, may be referred to the master, except as the referring court may limit. [A judge may refer to a master any civil case involving a motion:

[(1) of contempt for failure or refusal:

[(A) to pay child support, temporary support, or separate maintenance; or

[(B) to comply with a court order concerning possession of or access to a child who has been the subject of a suit affecting the parent-child relationship; or

[(2) to modify a decree in a suit affecting the parent-child relationship that provides for access to or support, conservatorship, or possession of a child.]

Sec. 54.006. ORDER OF REFERRAL. (a) To refer cases [a case] to a master, the referring court [a judge] must issue an order of referral [specifying the master's duties].

(b) The order of referral may limit the power or duties of a master[:

[(1) limit the powers of a master and direct the master to report only on specific issues, do particular acts, or receive and report on evidence only;

- ~~[(2) set the time and place for the hearing;~~
- ~~[(3) prescribe a closing date for the hearing; and~~
- ~~[(4) provide a date for the filing of the master's report].~~

Sec. 54.007. **POWERS AND DUTIES.** Except as limited by an order of referral, a master ~~[to whom a case is referred]~~ may:

- (1) conduct hearings;
- (2) hear evidence;
- (3) compel production of relevant evidence;
- (4) rule on admissibility of evidence;
- (5) issue summons for the appearance of witnesses;
- (6) examine witnesses;
- (7) swear witnesses for hearings;
- (8) make findings of fact on evidence;
- (9) formulate conclusions of law;
- (10) recommend the judgment to be made in a case;
- (11) regulate all proceedings in a hearing before the master; and
- (12) do any act and take any measure necessary and proper for the

efficient performance of the master's duties ~~[required by the order of referral].~~

Sec. 54.008. **ATTENDANCE OF BAILIFF [NOTICE OF HEARING].** A bailiff may attend a hearing held by a master if directed by the referring court [Before a master holds a hearing, each party shall be given notice of the time and place of the hearing as provided by law].

Sec. 54.009. **WITNESS.** (a) A witness appearing ~~[who appears]~~ before a master ~~[and]~~ is ~~[sworn is]~~ subject to the penalties for perjury provided by law.

(b) A referring court may issue attachment against and may fine or imprison a witness whose failure to appear before a master after being summoned or whose refusal to answer questions has been certified to the court.

Sec. 54.010. **REPORT [PAPERS] TRANSMITTED TO COURT; NOTICE [JUDGE].** (a) At the conclusion of any hearing conducted by a master and on the preparation of a master's report, the master shall transmit to the referring court all papers relating to the case, with the master's signed and dated report.

(b) After the master's report has been signed, the master shall give to the parties participating in the hearing notice of the substance of the report. The master's report may contain the master's findings, conclusions, or recommendations. The master's report must be in writing in a form as the referring court may direct. The form may be a notation on the referring court's docket sheet.

(c) Notice of the right of appeal to the judge of the referring court shall be given to all parties. This notice may be given at the hearing or by posting the notice inside or outside of the courtroom of the referring court or otherwise as the referring court directs. [At the conclusion of a hearing, a master shall transmit to the referring judge any papers relating to the case, including the master's findings and a statement that notice of the findings and of the right to a hearing before the judge has been given to any principal, minor, and the parent, guardian, or custodian of any principal who is a minor.]

Sec. 54.011. **JUDICIAL ACTION ON MASTER'S REPORT.** After the master's report is filed, and unless the parties have filed a written notice of appeal to the referring court, the referring court may adopt, approve, or reject the master's report, hear further evidence, or recommit the matter for further proceedings as the referring court considers proper and necessary in the particular circumstances of the case. [(a) A referring court may adopt, modify, correct, reject, reverse, or recommit for further information a master's report.

[(b) If the master recommends a judgment, the court may approve the recommendation and hear further evidence before rendering a judgment.]

Sec. 54.012. **APPEAL TO REFERRING COURT [HEARING BEFORE JUDGE].** (a) Any party is entitled to a hearing by the judge of the referring court,

if within three days, computed in the manner provided by Rule 4 of the Texas Rules of Civil Procedure, after the master gives the notice required in Subsection (b) of Section 54.010, an appeal of the master's report is filed with the referring court.

(b) The first day of the appeal time to the referring court begins on the day after the day on which the master gives the notice required in Subsection (b) of Section 54.010.

(c) The notice required under Subsection (b) of Section 54.010 may be given in open court or may be given by certified mail, return receipt requested. If the notice is given by certified mail, return receipt requested, the master shall certify the date of mailing and the notice is considered to have been given on the third day after the date of the mailing.

(d) All appeals to the referring court shall be in writing specifying the findings and conclusions of the master that are objected to and the appeal shall be limited to those findings and conclusions.

(e) On appeal to the referring court, the parties may present witnesses as in a hearing de novo on the issues raised in the appeal.

(f) Notice of any appeal to the referring court shall be given to opposing counsel pursuant to Rule 72 of the Texas Rules of Civil Procedure.

(g) If an appeal to the referring court is filed by a party, any other party may file an appeal to the referring court not later than the seventh day after the date the initial appeal was filed.

(h) The referring court, after notice to the parties, shall hold a hearing on all appeals not later than the 30th day after the date on which the initial appeal was filed with the referring court.

(i) Prior to any hearing before a master, the parties may waive the right of appeal to the referring court in writing or on the record.

(j) Failure to appeal to the referring court, by waiver or otherwise, a master's report that is approved by the referring court does not deprive any party of the right to appeal to or request other relief from a court of appeals or the supreme court. The date of the signing of an order or judgment by the referring court is the controlling date for the purposes of appeal to or request for other relief from a court of appeals or the supreme court. [(a) After receiving notice of the master's findings, any principal or a minor or the minor's parent, guardian, or custodian is entitled to a hearing before the judge of the referring court.

[(b) Notice of the right to a hearing before the judge may be given at the hearing before the magistrate or otherwise as the referring court directs.

[(c) A request for a hearing must be filed with the referring court not later than the third day after the date notice of the master's findings is received by the principal, minor, parent, guardian, or custodian.

[(d) The court may allow the hearing at any time.]

Sec. 54.013. DECREE OR ORDER OF COURT. If an appeal to the referring court [a hearing before the judge] is not filed [requested] or the right to an appeal to the referring court [a hearing] is waived, the findings and recommendations of the master become the decree or order of the referring court only on the referring court's signing an order or decree conforming to the master's report [on adoption by an order of the judge].

Sec. 54.014. JURY TRIAL DEMANDED. If a jury trial is demanded and a jury fee paid in a trial on the merits [proceeding], the master shall refer any matters requiring a jury [the case] back to the referring court for a full trial [hearing] before the referring court and jury. [The hearing is subject to the usual rules of the court.]

Sec. 54.015. EFFECT OF MASTER'S REPORT PENDING APPEAL. Pending appeal of the master's report to the referring court, the decisions and recommendations of the master are in full force and effect and are enforceable as an order of the referring court, except for orders providing for incarceration or for the appointment of a receiver.

Sec. 54.016. INAPPLICABILITY OF THIS SUBCHAPTER TO MASTERS APPOINTED PURSUANT TO RULE 171, TEXAS RULES OF CIVIL PROCEDURE. Masters appointed by the referring court pursuant to Rule 171 of the Texas Rules of Civil Procedure have all the duties and powers set forth in the order of appointment and are not governed by this subchapter.

Sec. 54.017. IMMUNITY. A master appointed under this subchapter has the judicial immunity of a district judge. All existing immunity granted masters by law, express or implied, continues in full force and effect.

Sec. 54.018. COURT REPORTER. A court reporter is not required during a hearing held by a master appointed under this subchapter. A party, the master, or the referring court may provide for a reporter during the hearing. The record may be preserved by any other means approved by the master. The referring court or master may tax the expense of preserving the record as costs.

SECTION 3.02. Chapter 54, Government Code, is amended by adding a new Subchapter F to read as follows:

SUBCHAPTER F. JUVENILE LAW MASTERS IN HARRIS COUNTY

Sec. 54.501. APPOINTMENT. (a) A majority of the judges of the courts that are designated as juvenile courts in Harris County may determine that one or more full-time or part-time masters are needed to serve those courts.

(b) The judges shall issue an order reflecting that determination and specifying the number of masters needed.

(c) Subject to the determination of need and the approval of the commissioners court of Harris County, each judge may appoint one or more masters to serve the judge's court.

(d) Judges may act together to appoint a master to serve their courts.

Sec. 54.502. QUALIFICATIONS. A master must:

- (1) be a citizen and resident of this state; and
- (2) have been licensed to practice law in this state for at least four years.

Sec. 54.503. ORDER OF APPOINTMENT. The order appointing a master must be entered in the minutes of each court making the order and state:

- (1) the master's name and state bar identification number;
- (2) the name of each court the master will serve; and
- (3) the date the master's service is to begin.

Sec. 54.504. COMPENSATION. The commissioners court shall set the compensation for masters and determine the total amount the county will pay as compensation for masters.

Sec. 54.505. JUDICIAL IMMUNITY. A master appointed under this Act has the same judicial immunity as a district judge.

Sec. 54.506. TERMINATION OF EMPLOYMENT. (a) A master who serves a single court serves at the will of the judge of that court.

(b) The employment of a master who serves two courts may be terminated by either of the judges of those courts.

(c) The employment of a master who serves more than two courts may be terminated by a majority of the judges of those courts.

(d) To terminate a master's employment, the appropriate judges must sign a written order of termination. The order must state:

- (1) the master's name and state bar identification number;
- (2) each court ordering termination; and
- (3) the date the master's employment ends.

Sec. 54.507. WITHDRAWAL OF APPOINTMENT FOR A PARTICULAR COURT. The judge of a court for which a master has been appointed may withdraw the master's appointment to that court by written order. The order must state:

- (1) the master's name and state bar identification number;

(2) the name of the court ordering the withdrawal; and

(3) the date the master's services end as to that court.

Sec. 54.508. CASES THAT MAY BE REFERRED. A judge may refer to a master any civil case or portion of a civil case brought:

(1) under Title 1, 2, 3, or 4, Family Code;

(2) in connection with Rule 308-A, Texas Rules of Civil Procedure; or

(3) in connection with Chapter 46 or 76, Human Resources Code.

Sec. 54.509. METHOD OF REFERRAL. A case may be referred as prescribed by published local rules or by written orders.

Sec. 54.510. POWERS. (a) An order of referral may limit the use or power of a master.

(b) Unless limited by published local rule, by written order, or by an order of referral, a master may perform all acts and take all measures necessary and proper to perform the tasks assigned in a referral.

(c) A master may administer oaths.

Sec. 54.511. EFFECT ON TEMPORARY RESTRAINING ORDER. (a) The referral of a case or a portion of a case to a master does not affect a party's right to have a court grant or extend a temporary restraining order and does not prevent the expiration of a temporary restraining order.

(b) Until a judge signs an order concerning the findings and recommendations of a master, the findings and recommendations do not affect an existing temporary restraining order or the expiration or extension of that order.

Sec. 54.512. JURY. (a) Except as provided by Subsection (b) of this section, if a jury trial is demanded in a case referred to a master, the master shall refer the case back to the referring court for a full hearing according to the usual rules applicable to the case.

(b) A jury demand does not affect the authority of a master to handle pretrial matters referred to the master.

Sec. 54.513. COURT REPORTER. (a) A court reporter need not be provided during a hearing conducted by a master.

(b) Notwithstanding Subsection (a) of this section, a referring judge may require a reporter at any hearing.

Sec. 54.514. FAILURE TO COMPLY WITH SUMMONS OR ORDER. If an attorney, party, witness, or any other person fails to comply with a summons or order, the master may certify in writing that failure to the referring court for appropriate action.

Sec. 54.515. WITNESSES. (a) A witness appearing before a master is subject to the penalties of perjury as provided by Chapter 37, Penal Code.

(b) A witness referred to the court under Section 54.514 of this Act is subject to the same penalties and orders that may be imposed on a witness appearing in a hearing before the court.

Sec. 54.516. RETURN TO REFERRING COURT; FINDINGS. After a hearing is concluded, the master shall send to the referring judge all papers relating to the case and the written findings of the master.

Sec. 54.517. COURT ACTION ON REPORT. (a) After the court receives the master's report, the court may adopt, modify, correct, reject, or reverse the master's report or may recommit it for further information, as the court determines to be proper and necessary in each case.

(b) If a judgment has been recommended, the court may approve the recommendation and hear more evidence before making its judgment.

Sec. 54.518. DECREE OR JUDGMENT. The finding and recommendations become the decree or judgment of the court when adopted and approved by an order of the judge.

Sec. 54.519. MASTERS IN CHANCERY. This subchapter does not prohibit a court from appointing a master in chancery as provided by Rule 171, Texas Rules of Civil Procedure.

Sec. 54.520. REFEREES. (a) A master appointed under this subchapter may serve as a referee as provided by Subsection (g) of Section 51.04 and Section 54.10, Family Code.

(b) A referee appointed under Subsection (g), Section 51.04, Family Code, may be appointed to serve as a master under this Act.

SECTION 3.03. A person who was, before the effective date of this Act, appointed a master under a law repealed by this Act is reappointed as a master in his position for the court or courts he serves.

SECTION 3.04. The following are repealed:

- (1) Subchapter B, Chapter 54, Government Code;
- (2) Section 1, Chapter 851, Acts of the 69th Legislature, Regular Session, 1985 (former Article 1918b, Vernon's Texas Civil Statutes); and
- (3) Chapter 667, Acts of the 69th Legislature, Regular Session, 1985 (Article 1918f-1, Vernon's Texas Civil Statutes).

Floor Amendment No. 5 - Toomey

Amend S.B. 687 to read as follows:

Insert between lines 9 and 10, page 9, SECTIONS 1.14 and 1.15 to read as follows:

SECTION 1.14. Effective September 1, 1987, Section 32.101(a), Government Code, is amended to read as follows:

(a) The Commissioners Court of Harris County shall budget for and pay the judges of the district courts having jurisdiction in that county for judicial and administrative services an annual salary of not less than \$12,000 nor more than \$2,000 more than the highest salary paid by the county to a statutory county court judge [~~\$25,000 for judicial and administrative services~~].

SECTION 1.15. Effective September 1, 1987, Section 32.101, Government Code, is amended by adding Subsection (d) to read as follows:

(d) Notwithstanding a provision of a general appropriations act, the comptroller may not reduce the state salary paid to a district judge because of the amount of salary received by the judge under this section.

Renumber SECTION 1.14, page 9, to read as SECTION 1.16.

Renumber SECTION 1.15, page 10, to read as SECTION 1.15.

Floor Amendment No. 6 - Hinojosa

Amend S.B. 687 on page 23 between lines 2 and 3 by inserting a new Article III to read as follows and renumber the following article and sections accordingly:

ARTICLE III. DISTRICT COURT SUPPORT

SECTION 3.01. Chapter 21, Government Code, is amended by adding a Section 21.008 to read as follows:

Sec. 21.008. DISTRICT COURT SUPPORT ACCOUNT. (a) The District Court Support Account of the Judicial Fund is created to be administered by the comptroller as directed by the Supreme Court.

(b) The comptroller shall allocate to the District Court Support Account such amounts from the Judicial Fund as may be designated in the General Appropriations Act.

(c) The District Court Support Account may be used only for court-related purposes for the support of the district courts of this state to defray the salaries of support personnel and other expenses incurred in the operations of the courts, the necessary expenses of the administrative judicial districts, and for the administration of this Act.

(d) The State Board of Regional Judges is hereby created to administer the funds appropriated to this account and to the Court Management Account of the Judicial Fund created by Section 21.007 of Section 1, Chapter 21 of the Government Code. The Board shall be composed of the nine Regional Administrative Judges of the State of Texas, who shall have the authority to organize, elect officers, and make such rules as may be necessary for the proper administration of these accounts.

(e) The comptroller shall file a report with the Legislative Budget Board at the end of each fiscal year showing disbursements from the account and the purpose for each disbursement. All funds expended are subject to audit by the comptroller of public accounts and the state auditor.

(f) Funds allocated for personnel may be used to pay in full or in part the salary of an employee, to supplement the salary of an existing employee, or to hire additional personnel.

(g) It is the purpose of this section to increase the funds available for the administration of justice in each county in this state and to provide funding to be used for court-related purposes for the support of the judicial branch of this state. Funds available from the judicial fund and its special account may be supplemented by local or federal funds and private or public grants. A county commissioners court may not reduce the amount of funds provided for these purposes because of the availability of funds from the judicial fund or the special account.

Floor Amendment No. 7 - Wolens

Amend S.B. 687 as follows:

Delete section 1.05, pages 3-4, and renumber the following sections.

Floor Amendment No. 8 - Wolens

Amend S.B. 687 as follows:

Section 2.09, page 20, beginning on line 11 delete the words "Each party to the case is only entitled to one objection under this subsection for that case."

Floor Amendment No. 9 - Denton

Amend S.B. 687 as follows:

(1) Add a new section to Article I appropriately numbered to read as follows:

SECTION _____. Sections 2.001 and 2.004, Court Administration Act (Article 200a-1, Vernon's Texas Civil Statutes) are repealed.

Floor Amendment No. 10 - Denton

Amend S.B. 687 on page 22, between lines 20 and 21, by inserting a new Section 2.12 to read as follows and renumbering the subsequent sections accordingly:

SECTION 2.12. Effective September 1, 1987, Sections 74.021 and 74.024, Government Code, as added by Senate Bill No. 895, Acts of the 70th Legislature, Regular Session, 1987, are repealed.

Floor Amendment No. 11 - Eckels

Amend S.B. 687 by adding a new appropriately numbered section as follows and renumber subsequent sections accordingly:

SECTION _____. ALCOHOLIC BEVERAGE LAW MASTERS IN CERTAIN COUNTIES.

(A) Chapter 25, Alcoholic Beverage Code, is amended by adding Section 25.051 to read as follows:

Sec. 25.051. MASTERS IN CERTAIN COUNTIES. (a) The county judge of a county with a population of 750,000 or more may appoint a master to hear a permit application under this chapter in the manner provided by Section 61.311 of this code for the appointment of a master to hear a license application.

(b) A master shall give notice of a hearing before the master to each person entitled to notice of a hearing before a judge under Section 25.05 of this code.

(B) Chapter 26, Alcoholic Beverage Code, is amended by adding Section 26.06 to read as follows:

Sec. 26.06. MASTERS IN CERTAIN COUNTIES. The county judge of a county with a population of 750,000 or more may appoint a master to hear a permit application under this chapter in the manner provided by Section 61.311 of this code for the appointment of a master to hear a license application.

(C) Subchapter B, Chapter 61, Alcoholic Beverage Code, is amended by adding Section 61.311 to read as follows:

Sec. 61.311. MASTERS IN CERTAIN COUNTIES. (a) The county judge of a county with a population of 750,000 or more may appoint a master to hear an application under this chapter.

(b) A master must be a citizen of this state and must be well informed in the law of this state.

(c) The master is entitled to a salary set by the county judge and approved by the commissioners court of the county in which the master serves.

(d) An order referring a case to a master may:

(1) specify or limit the powers of the master and direct the master to report only on particular issues, do particular acts, or receive and report only on evidence;

(2) set the time and place for beginning and closing a hearing; and

(3) set a date for filing a report.

(e) Except as limited or specified by an order referring a case, a master may:

(1) swear witnesses for hearings;

(2) examine witnesses;

(3) hear evidence;

(4) rule on admissibility of evidence;

(5) make findings of fact on evidence;

(6) recommend an order to be entered by the referring judge; and

(7) do any other act necessary and proper for the efficient

performance of the master's duties under the order.

(f) At the conclusion of a hearing, a master shall transmit to the referring judge any papers relating to the case, including the master's findings.

(g) A referring judge may adopt, modify, correct, reject, reverse, or recommit for further information a master's report.

(h) An applicant is entitled to a hearing before the judge, and the master shall give each applicant written notice of that right and a copy of the master's findings. A request for a hearing before the judge must be filed with the judge not later than the third day after the date notice of the master's findings is received by the applicant. The right to a hearing before the judge may be waived.

(i) A master may be an employee of the alcoholic beverage commission designated by the administrator. The commission is entitled to receive reimbursement for its expenses in connection with furnishing a master under this subsection. If the commission and the commissioners court of the county in which the master serves do not have a contract providing for reimbursement of expenses, the county judge may not appoint a master to hear an application under this subsection.

(D) Section 61.32(a), Alcoholic Beverage Code, is amended to read as follows:

(a) If ~~On hearing an application,~~ if the county judge finds that all facts stated in the application are true and no legal ground to refuse a license exists, he shall

enter an order certifying those findings and give the applicant a copy of the order. If the county judge finds otherwise, he shall enter an order accordingly.

(E) This section takes effect September 1, 1987, and applies only to an application for an alcoholic beverage license or permit that is filed with a county judge on or after that date.

The amendments were read.

Senator Farabee moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the Conference Committee on S.B. 687 before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Farabee, Chairman; Caperton, Glasgow, Jones and McFarland.

CONFERENCE COMMITTEE REPORT HOUSE BILL 150

Senator Montford submitted the following Conference Committee Report:

Austin, Texas
May 28, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on H.B. 150 have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

MONTFORD
HENDERSON
LYON
McFARLAND
FARABEE

On the part of the Senate

RICHARDSON
COOPER
WALDROP
CLARK
BLACKWOOD

On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

SESSION TO CONSIDER EXECUTIVE APPOINTMENTS

The Presiding Officer (Senator Brooks in Chair) announced the time had arrived to consider the Executive appointments to agencies, boards and commissions. Notice of submission of these names for consideration was given yesterday by Senator Edwards.

Senator Edwards moved confirmation of the nominees reported yesterday by the Committee on Nominations.

The Presiding Officer asked if there were requests to sever nominees.

There were no requests offered.

NOMINEES CONFIRMED

The following nominees as reported by the Committee on Nominations were confirmed by the following vote: Yeas 30, Nays 0.

Absent-excused: Truan.

Member, Commission on Jail Standards: IVY T. CORLEY; Randall County.

Member, Texas Board of Mental Health and Mental Retardation: MRS. PATTILOU DAWKINS, Randall County.

Member, Board of Regents, Texas Tech University: CLAUDE CAREY HOBBS, McLennan County.

Member, Board of Directors, State Bar of Texas: MRS. EVELYN P. Bonavita, Travis County. (Appointed by Supreme Court of Texas)

Members, State Board of Dental Examiners: DR. ROGER P. BYRNE, Nueces County; DR. RONALD HUGHES SHAMBLIN, Jasper County.

HOUSE BILL 1431 ON THIRD READING

On motion of Senator Parker and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its third reading and final passage:

H.B. 1431, Relating to investment of and security for investments of county funds.

The bill was read third time and was finally passed viva voce vote.

HOUSE BILL 554 ON SECOND READING

On motion of Senator Leedom and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 554, Relating to the imposition of cumulative or concurrent probated sentences.

The bill was read second time.

Senator Leedom offered the following committee amendment to the bill: Amend **H.B. 554** by inserting the following on page 1, line 21, after the word "accordingly" and before the period:

; provided, however, that the cumulative total of suspended sentences in felony cases shall not exceed ten years, and the cumulative total of suspended sentences in misdemeanor cases shall not exceed the maximum period of imprisonment in jail applicable to the misdemeanor offenses though in no event more than two years

The committee amendment was read and was adopted viva voce vote.

On motion of Senator Leedom and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading viva voce vote.

HOUSE BILL 554 ON THIRD READING

Senator Leedom moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 554** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Washington.

Absent-excused: Truan.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0.

Absent-excused: Truan.

HOUSE BILL 814 ON SECOND READING

On motion of Senator Tejeda and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 814, Relating to a permit application to locate a hazardous waste disposal site.

The bill was read second time.

Senator Tejeda offered the following committee amendment to the bill:

Amend **H.B. 814** as follows:

1. On page 1, line 19, after "needed," add the following sentence:

"Unless there are extenuating circumstances, if an applicant does not submit an administratively complete application as required by this paragraph, the application shall be considered withdrawn."

The committee amendment was read and was adopted viva voce vote.

On motion of Senator Tejeda and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading viva voce vote.

HOUSE BILL 814 ON THIRD READING

Senator Tejeda moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 814** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Washington.

Absent-excused: Truan.

The bill was read third time and was passed viva voce vote.

HOUSE BILL 1325 ON SECOND READING

On motion of Senator Henderson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1325, Relating to the regulation of vehicle storage lots; providing a penalty.

The bill was read second time and was passed to third reading viva voce vote.

HOUSE BILL 1325 ON THIRD READING

Senator Henderson moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1325** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Washington.

Absent-excused: Truan.

The bill was read third time and was passed viva voce vote.

HOUSE BILL 1368 ON SECOND READING

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1368, Relating to personnel files maintained by the director of a fire fighters' and police officers' civil service commission.

The bill was read second time and was passed to third reading viva voce vote.

HOUSE BILL 1368 ON THIRD READING

Senator Zaffirini moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1368** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Washington.

Absent-excused: Truan.

The bill was read third time and was passed viva voce vote.

FLOOR PRIVILEGES GRANTED

On motion of Senator Montford and by unanimous consent, floor privileges for the day were granted to Mr. Wayne Hollinshead of the Lubbock Metropolitan Rotary Club of Lubbock.

HOUSE BILL 999 ON SECOND READING

On motion of Senator Montford and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 999, Relating to the locations at which hearings regarding workers' compensation claims may be conducted by the Industrial Accident Board.

The bill was read second time.

Senator Montford offered the following committee amendment to the bill: Amend **H.B. 999**, at line 17, page 1, by substituting the word "association" for the word "subscriber".

At line 18, page 1, substitute the word "association" for the word "subscriber".

The committee amendment was read and was adopted viva voce vote.

On motion of Senator Montford and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading viva voce vote.

HOUSE BILL 999 ON THIRD READING

Senator Montford moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 999** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Washington.

Absent-excused: Truan.

The bill was read third time and was passed viva voce vote.

COMMITTEE SUBSTITUTE HOUSE BILL 1373 ON SECOND READING

On motion of Senator Edwards and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 1373, Relating to the creation of an agricultural diversification program.

The bill was read second time.

Senator Sarpalius offered the following amendment to the bill:

Floor Amendment No. 1

Amend **C.S.H.B. 1373**, CHAPTER 44, Sec. 44.003, subsection (a), by changing "five" on page 3 line 3 to "six"; and part (4) by changing "two" on page 3 line 12 to "one".

The amendment was read and was adopted viva voce vote.

Senator Sarpalius offered the following amendment to the bill:

Floor Amendment No. 2

Amend **C.S.H.B. 1373**, CHAPTER 44, Sec. 44.003, by deleting subsection (b) and substituting in lieu thereof the following:

(b) Members of the board appointed by the governor shall serve staggered six-year terms.

The amendment was read and was adopted viva voce vote.

On motion of Senator Edwards and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading viva voce vote.

COMMITTEE SUBSTITUTE HOUSE BILL 1373 ON THIRD READING

Senator Edwards moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **C.S.H.B. 1373** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Washington.

Absent-excused: Truan.

The bill was read third time and was passed viva voce vote.

(President in Chair)

**VOTE ON FINAL PASSAGE OF
HOUSE BILL 1196 RECONSIDERED**

On motion of Senator Whitmire and by unanimous consent, the vote by which **H.B. 1196** was finally passed was reconsidered.

Question - Shall **H.B. 1196** be finally passed?

Senator Whitmire offered the following amendment to the bill:

Amend **H.B. 1196** by striking SECTION 1 and substituting in lieu thereof the following:

SECTION 1. Subsections (h) and (i), Section 8, Article 42.18, Code of Criminal Procedure, as added by Chapter 427, Acts of the 69th Legislature, Regular Session, 1985, are amended to read as follows:

(h) (1) The board shall certify and contract with halfway houses and shall use them to the maximum extent:

(A) [(+)] to provide close supervision, treatment, and assistance in reintegration;

(B) [(2)] to help persons released on parole make restitution or reparation and fulfill the obligations of law-abiding citizens; and

(C) [(3)] to reduce recidivism.

(2) (A) Before a contract with a halfway house is granted, the board shall give timely notice of the letting of such contract to the state senator in whose district the halfway house is or will be located and shall, upon request by that senator, hold a public hearing to determine the degree of opposition to or support for the halfway house in the community where the halfway house is or will be located. Lack of such notice and opportunity for hearing renders such contract void.

(B) Contracts with halfway houses in counties of more than 2.4 million which contain 30-day escape clauses which have not expired before the effective date of this Act are subject to the provisions of this Act and are void.

(i) It shall be the duty of the board at least 10 days before ordering the parole of any prisoner or upon the granting of executive clemency by the governor to notify the sheriff, the prosecuting attorney, and the district judge in the county where such person was convicted and the county to which the prisoner is released that such parole or clemency is being considered by the board or by the governor. Additionally, no later than the 10th day after the board orders the transfer of a prisoner to a halfway house under this article, the board shall notify the sheriff of the county in which the prisoner was convicted and shall notify the sheriff of the county in which the halfway house is located and the attorney who represents the state in the prosecution of felonies in that county. The notice must state the prisoner's name, the county in which the prisoner was convicted, and the offense for which the prisoner was convicted.

The amendment was read and was adopted by the following vote: Yeas 24, Nays 5.

Yeas: Anderson, Armbrister, Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Glasgow, Green, Henderson, Johnson, Krier, Leedom, Lyon, Parmer, Santiesteban, Sarpalius, Sims, Tejeda, Uribe, Washington, Whitmire, Zaffirini.

Nays: Farabee, Harris, Jones, Montford, Parker.

Absent: McFarland.

Absent-excused: Truan.

On motion of Senator Whitmire and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was again finally passed by the following vote: Yeas 30, Nays 0.

Absent-excused: Truan.

HOUSE BILL 1318 ON THIRD READING

On motion of Senator Washington and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its third reading and final passage:

H.B. 1318, Relating to municipal liability for certain traffic offenses committed by certain municipal employees in the course and scope of their employment.

The bill was read third time and was finally passed viva voce vote.

HOUSE BILL 2109 ON THIRD READING

On motion of Senator Washington and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its third reading and final passage:

H.B. 2109, Relating to the legislative leave taken by certain fire fighters or police officers.

The bill was read third time and was finally passed viva voce vote.

HOUSE BILL 2347 ON SECOND READING

On motion of Senator Green and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 2347, Relating to the accredited program accountable costs.

The bill was read second time.

Senator Green offered the following amendment to the bill:

Amend **H.B. 2347** by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Section 16.201, Education Code, is amended to read as follows:

Sec. 16.201. REPORT. As part of its biennial report to the legislature, the State Board of Education shall report what it determines to be the minimum basic (annual-average) accountable costs per student to school districts of (in) providing quality education programs, personnel, and facilities that meet the accreditation standards prescribed by law and rule, for each year of the next biennium.

SECTION 2. Section 16.202(a), Education Code, is amended to read as follows:

(a) The State Board of Education shall appoint an advisory committee to assist the board in determining the minimum basic (annual-average) accountable

costs. The committee must be composed of nine members, a majority of whom may not (must) be employees or officials of a local school district.

SECTION 3. Section 16.203, Education Code, is amended to read as follows:

Sec. 16.203. LEGISLATIVE CONSIDERATION. In adopting the amount of basic, special, and transportation allotments under this chapter, the legislature shall consider the recommendations and report of the State Board of Education as to the minimum basic (annual average) accountable costs of a program that meets accreditation standards.

SECTION 4. This Act takes effect September 1, 1987.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read and was adopted viva voce vote.

On motion of Senator Green and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading viva voce vote.

HOUSE BILL 2347 ON THIRD READING

Senator Green moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 2347** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Washington.

Absent-excused: Truan.

The bill was read third time and was passed viva voce vote.

COMMITTEE SUBSTITUTE HOUSE BILL 1213 ON SECOND READING

Senator Johnson moved to suspend the regular order of business to take up for consideration at this time:

C.S.H.B. 1213, Relating to the issuance of marriage licenses and to the time marriage ceremonies may take place.

The motion prevailed by the following vote: Yeas 22, Nays 5.

Yeas: Anderson, Armbrister, Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Glasgow, Harris, Johnson, Jones, Krier, Montford, Parmer, Santiesteban, Sarpalius, Sims, Tejada, Uribe, Whitmire, Zaffirini.

Nays: Green, Henderson, Leedom, Parker, Washington.

Absent: Farabee, Lyon, McFarland.

Absent-excused: Truan.

The bill was read second time and was passed to third reading viva voce vote.

**COMMITTEE SUBSTITUTE HOUSE BILL 1213
ON THIRD READING**

Senator Johnson moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that C.S.H.B. 1213 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 23, Nays 4.

Yeas: Anderson, Armbrister, Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Glasgow, Harris, Johnson, Jones, Krier, Lyon, Montford, Parmer, Santiesteban, Sarpalius, Sims, Tejeda, Uribe, Whitmire, Zaffirini.

Nays: Green, Leedom, Parker, Washington.

Absent: Farabee, Henderson, McFarland.

Absent-excused: Truan.

The bill was read third time and was passed viva voce vote.

HOUSE JOINT RESOLUTION 35 ON SECOND READING

On motion of Senator Anderson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.J.R. 35, Proposing a constitutional amendment to abolish the office of county treasurer in certain counties.

The resolution was read second time and was passed to third reading viva voce vote.

HOUSE JOINT RESOLUTION 35 ON THIRD READING

Senator Anderson moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that H.J.R. 35 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 2.

Yeas: Anderson, Armbrister, Barrientos, Blake, Brooks, Brown, Caperton, Farabee, Glasgow, Green, Harris, Henderson, Johnson, Jones, Krier, Leedom, Lyon, McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sims, Tejeda, Uribe, Whitmire, Zaffirini.

Nays: Edwards, Washington.

Absent-excused: Truan.

The resolution was read third time and was passed by the following vote: Yeas 29, Nays 1.

Nays: Edwards.

Absent-excused: Truan.

HOUSE BILL 1440 ON SECOND READING

On motion of Senator Sims and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1440, Relating to the use of land that qualifies for agricultural or open-space appraisal for ad valorem taxation purposes and to notice of a property owner's right to a decision of an appraisal review board.

The bill was read second time and was passed to third reading viva voce vote.

HOUSE BILL 1440 ON THIRD READING

Senator Sims moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1440** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Washington.

Absent-excused: Truan.

The bill was read third time and was passed viva voce vote.

RECORD OF VOTE

Senator Edwards asked to be recorded as voting "Nay" on the final passage of the bill.

HOUSE BILL 534 ON SECOND READING

On motion of Senator Brown and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 534, Relating to the offense of tampering with identification numbers.

The bill was read second time.

Senator Brown offered the following committee amendment to the bill:

Amend **H.B. 534**, Section 1, Section 31.11 (a) by inserting the words "without the effective consent of the owner" to follow the word "if".

The committee amendment was read and was adopted viva voce vote.

Senator Armbrister offered the following amendment to the bill:

Amend **H.B. 534**, SECTION 1, by adding subsection (h) to read as follows:

(h) It is an affirmative defense to prosecution under subsection (a) of this section if the person notifies, either through advertising, contract, or warranty that the serial number or other permanent identification marking has been altered, removed, or obliterated.

The amendment was read and was adopted viva voce vote.

On motion of Senator Brown and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended failed to pass to third reading by the following vote: Yeas 10, Nays 18.

Yeas: Armbrister, Blake, Brooks, Brown, Henderson, Jones, Krier, Leedom, Montford, Uribe.

Nays: Anderson, Barrientos, Caperton, Farabee, Glasgow, Green, Harris, Johnson, Lyon, Parker, Parmer, Santiesteban, Sarpalius, Sims, Tejeda, Washington, Whitmire, Zaffirini.

Absent: Edwards, McFarland.

Absent-excused: Truan.

HOUSE BILL 1523 ON SECOND READING

On motion of Senator Farabee and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1523, Relating to certain procedures related to investigations of judges by the State Commission on Judicial Conduct.

The bill was read second time.

Senator Tejeda offered the following amendment to the bill:

Floor Amendment No. 1

Amend **H.B. 1523** between lines 30 and 31, by inserting new Sections 2 and 3 to read as follows and renumbering current Section 2 as Section 4:

SECTION 2. Section 33.032, Government Code, is amended to read as follows:

Sec. 33.032. ~~[CONFIDENTIALITY OF]~~ PAPERS, RECORDS, AND PROCEEDINGS. (a) ~~Except as provided by Subsection (c), the [The]~~ papers filed with and proceedings before the commission are confidential prior to the convening of a formal hearing.

(b) The formal hearing, and all papers, records, documents, and other evidence introduced during the formal hearing, shall be public.

(c) If the commission issues a public admonition, warning, reprimand, or requirement that a person obtain additional training or education, all papers, documents, evidence, and records considered by the commission or forwarded to the commission by its staff, in the proceedings shall be public.

SECTION 3. Section 33.033(b), Government Code, is amended to read as follows:

(b) The communication shall inform the complainant that:

- (1) the complaint has no basis and has been dismissed;
- (2) appropriate action has been taken, the nature of which will not be disclosed unless disclosure is authorized under Section 33.032; or
- (3) formal proceedings have been instituted.

The amendment was read and was adopted viva voce vote.

Senator Krier offered the following amendment to the bill:

Floor Amendment No. 2

Amend **H.B. 1523** on page 1, between lines 30 and 31, by inserting a new Section 2 to read as follows and by renumbering current Section 2 as Section 3:

SECTION 2. (a) By filing an application for a place on the ballot, a candidate for a judicial office waives all rights to confidentiality that exist as to records of criminal convictions of the candidate maintained by a law enforcement agency, and of sanctions imposed on or reprimands issued to the candidate and maintained by the State Commission on Judicial Conduct, or a grievance committee of the state bar relating to the candidate. A person also may waive his rights to confidentiality that exist as to those records by filing a signed written statement with the custodian of the records waiving all rights to confidentiality.

(b) This section applies only to records of sanctions or reprimands that result from an act that causes injury to a party in a case, to the public, to the legal system, to the judiciary, or to the legal profession.

(c) A waiver under this section is effective notwithstanding a rule of the state bar or any other law under which the records are confidential, except that the waiver does not authorize the release of names of witnesses or complainants if those names would otherwise be confidential.

(d) Any person may obtain copies of the records made public as provided by this section by:

(1) submitting a written request for the records to the custodian of the records; and

(2) paying a reasonable fee, not to exceed 25 cents a page, for copies of the records.

(e) If a person requests copies of records as provided by this section and the custodian of the records refuses to release the information before the 14th day after the date of the request, the person may bring suit in district court.

(f) On a finding that the custodian wrongfully withheld the information, the court shall:

(1) order the custodian to release the information; and

(2) award reasonable costs and attorney's fees to the prevailing party.

(g) The publication by any person of information obtained under this section is privileged and may not be the basis of any action for liability for damages, costs, or attorney's fees.

(h) A publication is not privileged under this section if the court finds that the publication was substantially inaccurate in conveying the information obtained under this section.

The amendment was read.

On motion of Senator Washington, Floor Amendment No. 2 was tabled by the following vote: Yeas 25, Nays 5.

Yeas: Anderson, Armbrister, Barrientos, Brooks, Caperton, Edwards, Farabee, Glasgow, Green, Harris, Henderson, Johnson, Leedom, Lyon, McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sims, Uribe, Washington, Whitmire, Zaffirini.

Nays: Blake, Brown, Jones, Krier, Tejada.

Absent-excused: Truan.

On motion of Senator Farabee and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading viva voce vote.

HOUSE BILL 1523 ON THIRD READING

Senator Farabee moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that H.B. 1523 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Washington.

Absent-excused: Truan.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0.

Absent-excused: Truan.

MESSAGE FROM THE HOUSE

House Chamber
May 28, 1987

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

The House has concurred in Senate amendments to the following bills by a non-record vote:

H.B. 1739
H.B. 2579
H.B. 2580
H.B. 2581

Motion to reconsider the vote by which House refused to concur in Senate amendments to **H.B. 1963** prevailed by a non-record vote, and House conferees discharged. House concurred in Senate amendments to **H.B. 1963** by a non-record vote.

The House refused to concur in Senate amendments to **H.B. 356** and has requested the appointment of a Conference Committee to consider the differences between the two Houses. House Conferees: Eckels, Chairman; Heflin, Culberson, Colbert and Martinez.

The House refused to concur in Senate amendments to **H.B. 994** and has requested the appointment of a Conference Committee to consider the differences between the two Houses. House Conferees: Dutton, Chairman; L. Evans, Edwards, G. Thompson and S. Thompson.

The House refused to concur in Senate amendments to **H.B. 1230** and has requested the appointment of a Conference Committee to consider the differences between the two Houses. House Conferees: Gibson, Chairman; Patterson, P. Moreno, Yost and Givens.

The House refused to concur in Senate amendments to **H.B. 1294** and has requested the appointment of a Conference Committee to consider the differences between the two Houses. House Conferees: Gavin, Chairman; Burnett, Pierce, S. Hudson and Patrick.

The House refused to concur in Senate amendments to **H.B. 2445** and has requested the appointment of a Conference Committee to consider the differences between the two Houses. House Conferees: Berlanga, Chairman; Warner, Laney, Rodriguez and Saunders.

The House has granted the request of the Senate for the appointment of a Conference Committee on **S.C.R. 68**: Madla, Chairman; J. Harris, Schoolcraft, Clemons and Heflin.

The House has granted the request of the Senate for the appointment of a Conference Committee on **S.B. 522**: Harrison, Chairman; Horn, Waterfield, A. Moreno and R. Cuellar.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

CONFERENCE COMMITTEE ON HOUSE BILL 1230

Senator Anderson called from the President's table for consideration at this time the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 1230** and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **H.B. 1230** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Anderson, Chairman; McFarland, Harris, Sims and Green.

HOUSE BILL 637 ON SECOND READING

On motion of Senator Brooks and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 637, Relating to the compensation of certain district court reporters.

The bill was read second time and was passed to third reading viva voce vote.

HOUSE BILL 637 ON THIRD READING

Senator Brooks moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 637** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Washington.

Absent-excused: Truan.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0.

Absent-excused: Truan.

SENATE RULE 74a SUSPENDED

On motion of Senator Brown and by unanimous consent, Senate Rule 74a was suspended as it relates to the House amendments to **S.J.R. 9**.

SENATE JOINT RESOLUTION 9 WITH HOUSE AMENDMENT

Senator Brown called **S.J.R. 9** from the President's table for consideration of the House amendment to the resolution.

The President laid the resolution and the House amendment before the Senate.

Committee Amendment - Leonard

Amend **S.J.R. 9** by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Article III, Section 18, of the Texas Constitution is amended to read as follows:

Sec. 18. (a) No Senator or Representative shall, during the term for which he was elected, be eligible to (1) any civil office of profit under this State which shall have been created[, or the emoluments of which may have been increased,] during

such term, or (2) any office or place, the appointment to which may be made, in whole or in part, by either branch of the Legislature; provided, however, the fact that the term of office of Senators and Representatives does not end precisely on the last day of December but extends a few days into January of the succeeding year shall be considered as de minimis, and the ineligibility herein created shall terminate on the last day in December of the last full calendar year of the term for which he was elected.

(b) If a person who served in the Legislature enters into a civil office of emolument the emoluments of which are increased by the Legislature during the legislative term to which the person was elected, the person is not entitled to receive the increase in emoluments of the civil office as long as the increase authorized by the Legislature to which the person was elected is in effect. This subsection does not prohibit a person who served in the Legislature from receiving an increase in the emoluments of the civil office adopted by a subsequent Legislature.

(c) No member of either House shall vote for any other member for any office whatever, which may be filled by a vote of the Legislature, except in such cases as are in this Constitution provided, nor shall any member of the Legislature be interested, either directly or indirectly, in any contract with the State, or any county thereof, authorized by any law passed during the term for which he was elected.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 3, 1987. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment to provide that a member of the legislature who resigns from the legislature is eligible to serve in a different state office, but may not receive an increase in compensation granted to that office during the legislative term to which he was elected."

The amendment was read.

Senator Brown moved that the Senate do not concur in the House amendment, but that a Conference Committee be appointed to adjust the differences between the two Houses on the resolution.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on S.J.R. 9 before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the resolution: Senators Brown, Chairman; Montford, Lyon, Caperton and Edwards.

CONFERENCE COMMITTEE ON HOUSE BILL 1169

Senator Jones called from the President's table for consideration at this time the request of the House for a Conference Committee to adjust the differences between the two Houses on H.B. 1169 and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on H.B. 1169 before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Jones, Chairman; Barrientos, Edwards, Harris and McFarland.

CONFERENCE COMMITTEE ON HOUSE BILL 1718

Senator Harris called from the President's table for consideration at this time the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 1718** and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **H.B. 1718** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Harris, Chairman; Blake, Brown, Henderson and Krier.

CONFERENCE COMMITTEE ON HOUSE BILL 1294

Senator Green called from the President's table for consideration at this time the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 1294** and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **H.B. 1294** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Green, Chairman; Armbrister, Caperton, Harris and Henderson.

CONFERENCE COMMITTEE ON HOUSE BILL 790

Senator Parmer called from the President's table for consideration at this time the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 790** and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **H.B. 790** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Parmer, Chairman; Anderson, Barrientos, Leedom and Zaffirini.

CONFERENCE COMMITTEE ON HOUSE BILL 23

Senator Brown called from the President's table for consideration at this time the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 23** and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **H.B. 23** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Brown, Chairman; Glasgow, Henderson, McFarland and Washington.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 33 ADOPTED**

Senator Farabee called from the President's table the Conference Committee Report on S.B. 33. (The Conference Committee Report having been filed with the Senate and read on Tuesday, May 26, 1987.)

On motion of Senator Farabee, the Conference Committee Report was adopted viva voce vote.

**CONFERENCE COMMITTEE REPORT
SENATE BILL 270**

Senator Green submitted the following Conference Committee Report:

Austin, Texas
May 28, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on S.B. 270 have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

GREEN
BARRIENTOS
JOHNSON
WHITMIRE
URIBE

On the part of the Senate

CAVAZOS
RUSSELL
COLBERT
WATERFIELD
REPP

On the part of the House

**A BILL TO BE ENTITLED
AN ACT**

relating to safety belts and seat backs on school buses.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 21, Education Code, is amended by adding Section 21.1731 to read as follows:

Sec. 21.1731. **SAFETY BELTS AND SEAT BACKS.** (a) The seat for each passenger that a school bus is designed to carry must be equipped with a safety belt and a padded seat back that is at least 28 inches high. The seats and safety belts must comply with applicable standards adopted by the National Highway Traffic Safety Administration.

(b) Each school district shall provide demonstrations and instructions to its students regarding safety belt usage.

(c) Neither a school district nor a school bus driver is liable for a student's injury caused solely by the student's negligent failure to wear a safety belt while the bus was being operated.

(d) Except in an action against a school district or a school bus driver for damages for injury a student sustained as a school bus passenger, use or nonuse of a safety belt on a school bus is not admissible evidence in a civil trial.

(e) This section does not apply to a school bus that is purchased or leased by a school district or a transportation company before January 1, 1988.

(f) The State shall appropriate the amount necessary to implement the provisions of this Act.

(g) The Texas Education Agency shall regularly collect data on accidents involving school buses, to include:

(1) Whether the bus involved was equipped with seat belts.

(2) The number of injuries and or fatalities including any injuries related to the wearing of the seat belts.

(3) A comparison of accidents involving seat-belt-equipped buses to those buses not equipped with seat belts.

The Agency shall report to the 71st Legislature the results of this study. The provisions of this section (g) shall expire on January 1, 1989.

SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The Conference Committee Report was read and was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT
SENATE BILL 481**

Senator Johnson submitted the following Conference Committee Report:

Austin, Texas
May 27, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on S.B. 481 have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

JOHNSON
BARRIENTOS
HARRIS
PARMER
PARKER

On the part of the Senate

BLAIR
CAIN
MARCHANT
PATRICK
RUSSELL

On the part of the House

**A BILL TO BE ENTITLED
AN ACT**

relating to the repair or removal of substandard buildings in a home-rule municipality; providing a civil penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 1175, Revised Statutes, is amended by adding Subdivision 37 to read as follows:

37. (a) This subdivision applies only to a home-rule city that has a population of 700,000 or more, according to the most recent federal census, and has adopted an ordinance under Subdivision 36 of this article.

(b) In addition to the authority granted under Subdivision 36 of this article, after the expiration of the time allotted under Subdivision 36 of this article for the repair or removal of a building the city may:

(i) repair the building at the expense of the city and assess the expenses on the land on which the building stands or to which it is attached and may provide for that assessment, the mode and manner of giving notice, and the means of recovering the repair expenses; or

(ii) assess a civil penalty against the property owner for failure to repair or remove the building and provide for that assessment, the mode and manner of giving notice, and the means of recovering the assessment.

(c) The city may repair a building under Paragraph (b) of this subdivision only to the extent necessary to bring the building into compliance with the minimum standards and only if the building is a residential building with 10 or less dwelling units. The repairs may not improve the building to the extent that the building exceeds minimum housing standards.

(d) The city may impose a lien against the land on which the building stands or stood to secure the payment of the repair or removal expenses or the civil penalty.

(e) The city's lien to secure the payment of a civil penalty or the costs of repairs or removal is inferior to any previously recorded bona fide mortgage lien attached to the real property to which the city's lien attaches if the mortgage lien was filed for record in the office of the county clerk of the county in which the real property is located before the date the civil penalty is assessed or the repair or removal is begun by the city. The city's lien is superior to all other previously recorded judgment liens.

(f) Any civil penalty or other assessment imposed under this subdivision accrues interest at the rate of 10 percent a year from the date of the assessment until paid in full.

(g) The city's right to the assessment lien may not be transferred to third parties.

(h) In any judicial proceeding regarding enforcement of city rights under this subdivision, the prevailing party is entitled to recover reasonable attorney's fees from the nonprevailing party.

SECTION 2. A lien acquired under this Act by any city or town, including a home-rule city, for repair expenses incurred by such city or town may not be foreclosed if the property upon which such repairs were effected is the residential homestead of a person 65 years of age or older and is being occupied as such by such person.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The Conference Committee Report was read and was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT HOUSE BILL 2181

Senator Parker submitted the following Conference Committee Report:

Austin, Texas
May 28, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 2181** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

PARKER
BARRIENTOS
BROOKS
GREEN
SANTIESTEBAN
On the part of the Senate

DELCO
McDONALD
A. JONES
D. HUDSON
RANGEL
On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

GUEST PRESENTED

Senator Anderson was recognized and introduced the Capitol Physician for the Day, Dr. Chuck Jones of Sulphur Springs.

Dr. Jones was welcomed and received the appreciation of the Senate for his service.

BILLS AND RESOLUTIONS SIGNED

The President announced the signing in the presence of the Senate, after the caption had been read, the following enrolled bills and resolutions:

S.C.R. 50	S.B. 525	S.B. 1177
S.C.R. 58	S.B. 765	S.B. 1184
S.C.R. 81	S.B. 776	S.B. 1345
S.C.R. 96	S.B. 899	S.B. 1346
S.C.R. 105	S.B. 909	S.B. 1360
S.C.R. 117	S.B. 930	S.B. 1384
S.C.R. 123	S.B. 976	S.B. 1385
S.B. 24	S.B. 982	S.B. 1387
S.B. 199	S.B. 1035	S.B. 1437
S.B. 225	S.B. 1071	S.B. 1458
S.B. 434	S.B. 1080	S.B. 1518
S.B. 462	S.B. 1130	S.B. 1144
S.B. 482		

SENATE RULE 103 SUSPENDED

On motion of Senator Farabee and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on State Affairs might consider the following bills and resolution upon adjournment today:

H.B. 1938
H.B. 2331
S.R. 668

SENATE RULE 103 SUSPENDED

On motion of Senator Caperton and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Jurisprudence might consider the following bills upon recess today:

H.B. 1453

H.B. 890

SENATE RULE 103 SUSPENDED

On motion of Senator Harris and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Economic Development might consider **H.B. 888** at 8:30 a.m. tomorrow.

SENATE RULE 103 SUSPENDED

On motion of Senator Brooks and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Health and Human Services might consider the following resolutions upon recess today:

H.C.R. 213

H.C.R. 202

SENATE RULE 103 SUSPENDED

On motion of Senator Parmer and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Intergovernmental Relations might consider **H.B. 47** upon recess today.

RECESS

On motion of Senator Brooks, the Senate at 12:11 p.m. took recess until 2:00 p.m. today.

AFTER RECESS

The Senate met at 2:00 p.m. and was called to order by the President.

REPORTS OF STANDING COMMITTEES

By unanimous consent, Senator Blake submitted the following report for the Committee on Administration:

C.S.H.C.R. 165

By unanimous consent, Senator Caperton submitted the following report for the Committee on Jurisprudence:

H.B. 1453 (Amended)

C.S.H.B. 1679

C.S.H.B. 2291

H.B. 2038

H.B. 982

H.B. 128

H.B. 494

H.B. 1512

H.B. 2328

C.S.H.B. 890

By unanimous consent, Senator Parker submitted the following report for the Committee on Education:

S.R. 645

By unanimous consent, Senator McFarland submitted the following report for the Committee on Criminal Justice:

C.S.H.B. 2449

CO-SPONSOR OF HOUSE BILL 410

On motion of Senator Lyon and by unanimous consent, Senator Anderson will be shown as Co-sponsor of H.B. 410.

CO-SPONSOR OF HOUSE BILL 707

On motion of Senator Green and by unanimous consent, Senator Anderson will be shown as Co-sponsor of H.B. 707.

CO-SPONSORS OF HOUSE BILL 1373

On motion of Senator Edwards and by unanimous consent, Senators Anderson and Lyon will be shown as Co-sponsors of H.B. 1373.

CO-SPONSORS OF HOUSE BILL 705

On motion of Senator Henderson and by unanimous consent, Senators Anderson, Brown and Uribe will be shown as Co-sponsors of H.B. 705.

MESSAGE FROM THE HOUSE

House Chamber
May 28, 1987

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

H.C.R. 235, Resolving to request the legislature to reconsider H.B. 65.

S.B. 298, Relating to the continuation, composition, powers, and duties of the Texas Department of Human Services and to the administration of programs for children, the disabled, and the elderly; providing penalties. (Substituted and amended)

S.B. 257, Relating to the continuation, composition, powers, and duties of the Texas Department of Mental Health and Mental Retardation and to the provision of mental health and mental retardation services; providing a penalty. (Substituted and amended)

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

SENATE BILL 473 WITH HOUSE AMENDMENTS

By unanimous consent, Senator Glasgow called S.B. 473 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Committee Amendment - G. Luna

Amend S.B. 473 by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Subsections (c) and (d), Section 24.0061, Property Code, are amended to read as follows:

(c) The writ of possession shall order the officer executing the writ to deliver possession of the premises to the landlord and to:

(1) instruct the tenant and all persons claiming under the tenant to leave the premises immediately, and, if the persons fail to comply, physically remove them;

(2) instruct the tenant to remove or to allow the landlord, the landlord's representatives, or other persons acting under the officer's supervision to remove all personal property from the premises other than personal property claimed to be owned by the landlord; and

(3) place, or have an authorized person place, the removed personal property outside the premises at a nearby location, but not blocking [on] a public sidewalk, passageway, or street[; or parking area] and not while it is raining, sleeting, or snowing.

(d) The writ of possession shall authorize the officer, at the officer's discretion, to:

(1) post a written warning on the exterior of the front door of the premises, notifying the tenant that the writ has been issued and that it will be executed on or after a specific date and time stated in the warning; and

(2) engage the services of a bonded or insured warehouseman to remove and store, subject to applicable law, part or all of the property at no cost to the landlord or the officer executing the writ.

SECTION 2. Section 24.009, Property Code, as added by Chapter 747, Acts of the 69th Legislature, Regular Session, 1985, is renumbered as Section 24.0062 and amended to read as follows:

Sec. 24.0062 [~~24.009~~]. WAREHOUSEMAN'S LIEN. (a) If personal property is removed from a tenant's premises as the result of an action brought under this chapter and stored in a bonded or insured public warehouse, the warehouseman has a lien on the property to the extent of any reasonable storage and moving charges incurred by the warehouseman. The lien does not attach to any property until the property has been stored by the warehouseman.

(b) If property is to be removed and stored in a public warehouse under a writ of possession, the officer executing the writ shall, at the time of execution, deliver in person to the tenant, or by first class mail to the tenant's last known address not later than 72 hours after execution of the writ if the tenant is not present, a written notice stating the complete address and telephone number of the location at which the property may be redeemed and stating that:

(1) the tenant's property is to be removed and stored by a public warehouseman under Section 24.0062 of the Property Code;

(2) the tenant may redeem any of the property, without payment of moving or storage charges, on demand during the time the warehouseman is removing the property from the tenant's premises and before the warehouseman permanently leaves the tenant's premises;

(3) within 30 days from the date of storage, the tenant may redeem any of the property described by Section 24.0062(e), Property Code, on demand by the tenant and on payment of the moving and storage charges reasonably attributable to the items being redeemed;

(4) after the 30-day period and before sale, the tenant may redeem the property on demand by the tenant and on payment of all moving and storage charges; and

(5) subject to the previously stated conditions, the warehouseman has a lien on the property to secure payment of moving and storage charges and may sell all the property to satisfy reasonable moving and storage charges after 30 days, subject to the requirements of Section 24.0062(j) of the Property Code.

(c) The statement required by Subsection (b)(2) must be underlined or in boldfaced print.

(d) On demand by the tenant during the time the warehouseman is removing the property from the tenant's premises and before the warehouseman permanently leaves the tenant's premises, the warehouseman shall return to the tenant all property requested by the tenant, without charge.

(e) On demand by the tenant within 30 days after the date the property is stored by the warehouseman and on payment by the tenant of the moving and storage charges reasonably attributable to the items being redeemed, the warehouseman shall return to the tenant at the warehouse the following property:

- (1) wearing apparel;
- (2) tools, apparatus, and books of a trade or profession;
- (3) school books;
- (4) a family library;
- (5) family portraits and pictures;
- (6) one couch, two living room chairs, and a dining table and chairs;
- (7) beds and bedding;
- (8) kitchen furniture and utensils;
- (9) food and foodstuffs;
- (10) medicine and medical supplies;
- (11) one automobile and one truck;
- (12) agricultural implements;
- (13) children's toys not commonly used by adults;
- (14) goods that the warehouseman or the warehouseman's agent knows are owned by a person other than the tenant or an occupant of the residence;
- (15) goods that the warehouseman or the warehouseman's agent knows are subject to a recorded chattel mortgage or financing agreement; and
- (16) cash.

(f) During the first 30 days after the date of storage, the warehouseman may not require payment of removal or storage charges for other items as a condition for redeeming the items described by Subsection (e).

(g) On demand by the tenant to the warehouseman after the 30-day period and before sale and on payment by the tenant of all unpaid moving and storage charges on all the property, the warehouseman shall return all the previously unredeemed property to the tenant at the warehouse.

(h) A warehouseman may not recover any moving or storage charges if the court determines under Subsection (i) that the warehouseman's moving or storage charges are not reasonable.

(i) Before the sale of the property by the warehouseman, the tenant may file suit in the justice court in which the eviction judgment was rendered, or in another court of competent jurisdiction in the county in which the rental premises are located, to recover the property described by Subsection (e) on the ground that the landlord failed to return the property after timely demand and payment by the tenant, as provided by this section. Before sale, the tenant may also file suit to recover all property moved or stored by the warehouseman on the ground that the amount of the warehouseman's moving or storage charges is not reasonable. All proceedings under this subsection have precedence over other matters on the court's docket. The justice court that issued the writ of possession has jurisdiction under this section regardless of the amount in controversy.

(j) [(b)] Any sale of property that is [the] subject to [of] a lien under this section shall be conducted in accordance with Sections 7.210, 9.301-9.318, and 9.501-9.507 of the Business & Commerce Code.

(k) In a proceeding under this section, the prevailing party is entitled to recover actual damages, reasonable attorney's fees, court costs, and, if appropriate, any property withheld in violation of this section or the value of that property if it has been sold.

SECTION 3. This Act applies only to property removed on or after the effective date of this Act pursuant to a forcible entry and detainer or forcible detainer action.

SECTION 4. This Act takes effect September 1, 1987.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Floor Amendment - Eckels

Amend C.S.S.B. 473 as follows:

(1) On page 1, line 5, strike "(c)" and substitute "(a), (b), (c),".

(2) On page 1, between lines 6 and 7, insert the following:

(a) A landlord who prevails in a forcible entry and detainer or a forcible detainer action is entitled to a judgment for possession of the premises, awards of costs and attorney's fees as provided by Section 24.006, and a writ of possession. A prevailing tenant is entitled to a judgment for costs and, if appropriate, reasonable attorney's fees. In this chapter, "premises" means the rental unit and any outside area or facility that the tenant is entitled to use under the lease or that is held out for the use of tenants generally.

(b) A writ of possession may not be issued before the sixth day after the date on which the judgment for possession is rendered unless a possession bond has been filed and approved under the Texas Rules of Civil Procedure and judgment for possession is thereafter granted by default.

(3) On page 1, line 19, strike "premises" and substitute "rental unit [premises]".

(4) On page 2, line 2, strike "premises" and substitute "rental unit [premises]".

The amendments were read.

Senator Glasgow moved to concur in the House amendments.

The motion prevailed viva voce vote.

SENATE BILL 583 WITH HOUSE AMENDMENTS

By unanimous consent, Senator Sims called S.B. 583 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Committee Amendment - D. Hudson

Amend S.B. 583 by adding a sentence at the end of Section 5 to read as follows: "If it is shown on the trial of an offense under this section that the person has previously been convicted of an offense under this section, the offense is a Class B misdemeanor."

Floor Amendment - Kuempel

Amend S.B. 583 on page 1, line 13, between "firearms" and "in" by inserting "on lots that are 10 acres or smaller".

The amendments were read.

Senator Sims moved to concur in the House amendments.

The motion prevailed viva voce vote.

SENATE BILL 1327 WITH HOUSE AMENDMENT

By unanimous consent, Senator Zaffirini, on behalf of Senator Truan, called **S.B. 1327** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Committee Amendment - Jones

Amend **S.B. 1327** on page 22, line 22, after the period, by inserting the following:

The district shall also provide maternal labor and delivery services in the district.

The amendment was read.

Senator Zaffirini moved to concur in the House amendment.

The motion prevailed viva voce vote.

SENATE RULE 74a SUSPENDED

On motion of Senator Glasgow and by unanimous consent, Senate Rule 74a was suspended as it relates to the House amendments to **S.B. 191**.

SENATE BILL 191 WITH HOUSE AMENDMENTS

By unanimous consent, Senator Glasgow called **S.B. 191** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Committee Amendment - C. Harris

Amend **S.B. 191** as follows:

Strike all of Section 2 and substitute the following:

SECTION 2. Subsection (a), Section 14.05, Family Code, is amended to read as follows:

(a) The court may order either or both parents to make periodic payments or a lump-sum payment, or both, for the support of the child until he or she is 18 years of age in the manner and to the persons specified by the court in the decree. The court of continuing exclusive jurisdiction may modify an existing order or enter a new order extending child support past the 18th birthday of the child, whether the request for such an order is filed before or after the child's 18th birthday[; provided that], if the child is fully enrolled in an accredited [primary or] secondary school in a program leading toward a high school diploma. The[, the] order for periodic support [of that child] may provide that payments continue until the end of the school year in which the child graduates. In addition, the court may order a parent obligated to support a child to set aside property to be administered for the support of the child in the manner and by the persons specified by the court in the decree. [After reviewing the recommendations of the Texas Commission on Child Support, the Supreme Court of Texas shall by rule adopt guidelines to compute an equitable amount of child support to guide the courts in determining the amount of child support.] In determining the amount of child support, the court shall consider all appropriate factors, including but not limited to the guidelines adopted by the supreme court, the needs of the child, the ability of the parents to contribute to the child's support, and any financial resources available for the support of the child.

Floor Amendment - Uher

Amend **S.B. 191** by renumbering Section 3 as Section 5 and adding new Sections 3 and 4 to read as follows:

SECTION 3. Section 14.05(b), Family Code, is amended to read as follows:

(b) If the court finds that the child, whether institutionalized or not, requires continuous care and personal supervision because of a mental or physical disability and will not be able to support himself, the court may order that payments for the support of the child shall be continued after the 18th birthday and extended support under this subsection has been made in the original suit, a petition requesting further action under Section 11.07 of this code, [or] a motion to modify under Section 14.08 of this code filed before the child's 18th birthday, or as provided under Section 14.051 of this code.

SECTION 4. Chapter 14, Family Code, is amended by adding Section 14.051 to read as follows:

Sec. 14.051. SUPPORT OF ADULT SON OR DAUGHTER. (a) Notwithstanding any other law, if the spouses are the biological or adoptive parents of an adult son or daughter who, whether institutionalized or not, requires continuous care and personal supervision because of a mental or physical disability, and the person will not be able to support himself, the court may order either or both parents to make periodic payments or a lump-sum payment, or both, for the support of the person for an indefinite period in the manner and to the persons specified by the court in the decree.

(b) In order to be eligible for support under this section the disability of an adult son or daughter must have been present at the time that the son or daughter became 18 years of age.

(c) An action for the support of an adult son or daughter may be brought independently, or may be joined with any other action brought under this code. The proceedings are the same as proceedings in suits affecting the parent-child relationship regarding the establishment, modification, and enforcement of child support.

The amendments were read.

Senator Glasgow moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **S.B. 191** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Glasgow, Chairman; Brown, Anderson, Krier and Tejada.

SENATE BILL 177 WITH HOUSE AMENDMENTS

By unanimous consent, Senator Lyon called **S.B. 177** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Committee Amendment - Melton

Amend **S.B. 177** by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. DEFINITIONS. In this Act:

(1) "Automotive wrecking and salvage yard" means any person or business that stores three or more wrecked vehicles outdoors for the purpose of dismantling

or otherwise wrecking the vehicles to remove parts for sale or for use in an automotive repair or rebuilding business.

(2) "Junk" means copper, brass, iron, steel, rope, rags, batteries, tires, or other material (other than a wrecked vehicle) that has been discarded or sold at a nominal price by a previous owner of the material.

(3) "Junkyard" means a business enterprise that owns and is operated to store, buy, or sell junk, all or part of which is kept outdoors until disposed of.

(4) "Recycling business" means a business enterprise that is primarily engaged in the business of:

(A) converting ferrous or nonferrous metals or other materials into raw material products having prepared grades and having an existing or potential economic value;

(B) using raw material products of that kind in the production of new products; or

(C) obtaining or storing ferrous or nonferrous metals or other materials for a purpose described by Paragraph (A) or (B) of this subdivision.

(5) "Wrecked vehicle" means a discarded, abandoned, junked, wrecked, or worn-out automotive vehicle, including an automobile, truck, tractor-trailer, or bus, that is not in a condition to be lawfully operated on a public road.

SECTION 2. EXEMPTIONS. (a) The screening requirement established by Section 3 of this Act does not apply to:

(1) an automobile wrecking and salvage yard as defined by, and that is subject to, Chapter 886, Acts of the 68th Legislature, Regular Session, 1983 (Article 2372dd, Vernon's Texas Civil Statutes);

(2) a junkyard or automobile graveyard as defined by the Texas Litter Abatement Act (Article 4477-9a, Vernon's Texas Civil Statutes) and that is subject to Section 4.08 of that Act;

(3) a recycling business;

(4) a junkyard or an automotive wrecking and salvage yard that is located entirely within an incorporated city or town and that is subject to regulation in any manner by the city or town; or

(5) a junkyard or an automotive wrecking and salvage yard that begins operation before January 1, 1987.

(b) The county licensing provisions of Section 5 of this Act do not apply to:

(1) a recycling business;

(2) a junkyard or an automotive wrecking and salvage yard that is located entirely within an incorporated city or town and that is subject to regulation in any manner by the city or town; or

(3) a junkyard or an automotive wrecking and salvage yard that begins operation before January 1, 1987.

SECTION 3. SCREENING REQUIREMENT. A person who operates a junkyard or an automotive wrecking and salvage yard in this state shall screen it by natural objects, plantings, fences, or other appropriate means so that the screen is at least 6 feet in height alongside that portion of the junkyard or automotive wrecking and salvage yard that faces a public road or family residence.

SECTION 4. EFFECT OF LOCAL ORDINANCES. In screening a junkyard or an automotive wrecking and salvage yard, the person who operates it must comply, to the extent practicable, with all applicable ordinances adopted by a political subdivision.

SECTION 5. COUNTY LICENSURE. (a) To protect the public health, safety, or welfare, the commissioners court of a county may adopt ordinances that require a junkyard or an automotive wrecking and salvage yard to be licensed by the county. The ordinances may:

(1) impose a fee of \$25 for the issuance or renewal of a license;

(2) condition the validity of a license on the operation of the junkyard or automotive wrecking and salvage yard only at a location approved by the commissioners court;

(3) establish grounds for suspending or revoking a license if not screened.

(b) Before adopting an ordinance under this section, the commissioners court must hold a public hearing at which interested members of the public may appear and testify before the court about the general subject to be covered by the proposed ordinance. The commissioners court shall post in a public place in the county courthouse a notice of the time, place, and general subject of the public hearing and shall cause the notice to be published in a newspaper of general circulation in the county. The notice must be posted for the 10 days immediately preceding the date of the public hearing and must be published at least once a week for the three weeks immediately preceding the week in which the public hearing is held.

(c) Fees received by a county under the licensing program shall be deposited in the general fund of the county.

(d) If a requirement, standard, or condition established under this section conflicts with a state law, a rule adopted under a state law, or a municipal ordinance the stricter of the two provisions prevails.

SECTION 6. INJUNCTION. (a) Any person is entitled to appropriate injunctive relief to prevent a violation or threatened violation of this Act or of a county ordinance adopted under Section 5 of this Act from continuing or occurring.

(b) The venue for the injunction proceeding is in the county in which any part of the junkyard or the automotive wrecking and salvage yard is located.

SECTION 7. CRIMINAL PENALTY. (a) A person who knowingly or intentionally violates Section 3 of this Act commits an offense. An offense under this subsection is a Class C misdemeanor.

(b) If a county ordinance adopted under Section 5 of this Act defines an offense for a violation of the ordinance, the offense is a Class C misdemeanor.

(c) A separate offense occurs under Subsection (a) or (b) of this section on each day on which all the elements of the offense exist.

SECTION 8. EFFECTIVE DATE. This Act takes effect January 1, 1988.

SECTION 9. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Floor Amendment - Oakley

Amend C.S.S.B. 177 as follows:

(1) On page 2, line 22, strike "January" and substitute "June".

(2) On page 3, line 3, strike "January" and substitute "June".

The amendments were read.

Senator Lyon moved to concur in the House amendments.

The motion prevailed viva voce vote.

SENATE BILL 1392 WITH HOUSE AMENDMENTS

By unanimous consent, Senator Parmer called S.B. 1392 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Committee Amendment - Danburg

Amend S.B. 1392 as follows:

- (1) On page 2, line 15, at the end of Section (d) add:

"The court finding required by Section (g) of this article is not required to disclose the confidential pseudonym form to the defendant in the case or the defendant's attorney."

Floor Amendment - Hinojosa

Amend S.B. 1392 as follows:

- (1) On page 1, line 19, strike "22.02" and substitute "22.021".
(2) On page 3, line 22, strike "22.02" and substitute "22.021".

The amendments were read.

Senator Parmer moved to concur in the House amendments.

The motion prevailed viva voce vote.

SENATE RULE 74a SUSPENDED

On motion of Senator Armbrister and by unanimous consent, Senate Rule 74a was suspended as it relates to the House amendment to S.B. 1123.

SENATE BILL 1123 WITH HOUSE AMENDMENT

By unanimous consent, Senator Armbrister called S.B. 1123 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Floor Amendment - Hammond

Amend S.B. 1123 as follows:

- (1) At the end of SECTION 9 of the bill, add SECTION 10 to read as follows and renumber the subsequent sections accordingly:

SECTION 10. Chapter 13, Family Code, is amended by adding Section 13.44 to read as follows:

Sec. 13.44. SUIT BARRED. (a) Except as provided by Subsection (b) of this section, a suit under this chapter with respect to a child is barred if final judgment has been rendered by a court of competent jurisdiction:

(1) adjudicating a named individual to be the biological father of the child; or

(2) terminating the parent-child relationship between the child and each living parent of the child; or

(3) granting a petition for the adoption of the child.

(b) During the pendency of an appeal or direct attack on a judgment described in Subsection (a), a suit under this chapter may be filed but shall, upon motion of any party, be stayed pending the final disposition of the appeal or direct attack on the judgment.

- (2) Amend Section 13 of the bill by striking Section 13 and substituting the following:

SECTION 13. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

Senator Armbrister moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Truan.

HOUSE CONCURRENT RESOLUTION 235

The President laid before the Senate the following resolution:

H.C.R. 235, Requesting the return of **H.B. 65** to the Senate for reconsideration of the vote by which the bill passed.

The resolution was read.

On motion of Senator Washington and by unanimous consent, the resolution was considered immediately and was adopted viva voce vote.

SENATE BILL 1055 WITH HOUSE AMENDMENT

Senator Green called **S.B. 1055** from the President's table for consideration of the House amendment to the bill.

On motion of Senator Green and by unanimous consent, consideration of the House amendment to **S.B. 1055** was withdrawn.

COMMITTEE SUBSTITUTE HOUSE BILL 707 ON SECOND READING

Senator Green moved to suspend the regular order of business to take up for consideration at this time:

C.S.H.B. 707, Relating to the preference for Texas and United States products under certain public purchasing contracts.

The motion prevailed by the following vote: Yeas 23, Nays 4.

Yeas: Anderson, Armbrister, Barrientos, Blake, Brooks, Caperton, Edwards, Farabee, Glasgow, Green, Johnson, Krier, Lyon, McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sims, Tejeda, Washington, Whitmire.

Nays: Brown, Jones, Leedom, Zaffirini.

Absent: Harris, Henderson, Uribe.

Absent-excused: Truan.

The bill was read second time.

Senator Washington offered the following amendment to the bill:

Floor Amendment No. 1

Amend **C.S.H.B. 707** as follows:

(1) On page 1, line 31, strike "TEXAS" and substitute "DISADVANTAGED, TEXAS₁".

(2) On page 1, between lines 57 and 58, insert:

(5) "Disadvantaged bidder" or "disadvantaged business" means:

(A) a corporation formed for the purpose of making a profit at least 51 percent of all classes of the shares of stock or other equitable securities of which are owned by one or more persons who are socially disadvantaged because of their identification as members of certain groups, including black Americans, Hispanic Americans, women, and American Indians;

(B) a sole proprietorship for the purpose of making a profit that is 100 percent owned, operated, and controlled by one or more persons described by Paragraph (A) of this subdivision;

(C) a partnership for the purpose of making a profit at least 51 percent of the assets and interest of which are owned by one or more persons described by Paragraph (A) of this subdivision so long as minority or women partners have a

proportionate interest in the control, operation, and management of the partnership affairs; or

(D) a joint venture between minority or women group members for the purpose of making a profit in which the minority participation is based on the sharing of real economic interest and includes equally proportionate control over management, interest in capital, and interest earnings, but if majority group members own or control debt securities, lease hold interest, management contracts, or other interests, the joint venture is not a disadvantaged business.

(6) "Disadvantaged Texas product" means a product that is manufactured, refined, produced, mined, or grown by a disadvantaged business in this state. The term includes a product assembled by a disadvantaged business in this state from component parts if at least 51 percent of those parts are manufactured by a disadvantaged business in this state. The term also includes crushed and broken stone, sand and gravel, shell products, slag, other construction aggregates, cement and cement clinker, or asphalt offered by disadvantaged businesses operating in Texas without regard to where those products or materials are manufactured, produced, or mined.

(3) On page 1, line 64, strike "equal" and substitute "[equal]".

(4) On page 2, between lines 12 and 13, insert:

(d) In a situation in which this section requires the giving of a preference to Texas products or products offered by Texas bidders, including agricultural products, among those products and bidders, if the cost to the state and the quality are equal, first preference shall be given to disadvantaged Texas products and products offered by Texas disadvantaged bidders, and second preference shall be given to other Texas products and products offered by other Texas bidders. If disadvantaged Texas products or products offered by a Texas disadvantaged bidder are not available, first preference shall be given as provided by this subsection to Texas products manufactured, refined, produced, mined, or grown by, and to products offered by Texas bidders who are, prime contractors at least 51 percent of whose subcontractors directly involved in the manufacture, warehousing, shipping, or distribution of supplies or materials are disadvantaged businesses.

(5) On page 2, line 13, strike "(d)" and substitute "(e)".

(6) On page 2, line 24, strike "(e)" and substitute "(f)".

(7) On page 2, line 26, strike "(a)(2) or (a)(4)" and substitute "(a)(2), (a)(4), or (a)(6)".

(8) On page 3, line 13, following the period, add "If a contract is to be awarded to a Texas bidder, preference shall be given to disadvantaged bidders as provided by Subsection (d) of that section."

(9) On page 3, line 23, between "agency" and the period, insert “, including preferences related to disadvantaged bidders”.

The amendment was read and was adopted by the following vote: Yeas 23, Nays 4.

Yeas: Anderson, Armbrister, Barrientos, Blake, Brooks, Caperton, Edwards, Glasgow, Green, Johnson, Krier, Lyon, McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sims, Tejada, Washington, Whitmire, Zaffirini.

Nays: Brown, Henderson, Jones, Leedom.

Absent: Farabee, Harris, Uribe.

Absent-excused: Truan.

(Senator Glasgow in Chair)

Senator Santiesteban offered the following amendment to the bill:

Floor Amendment No. 2

Amend C.S.H.B. 707 as follows:

On page 1, lines 36-41, delete the text and substitute the following:

(2) "American product" means a Texas product or a product that is manufactured, assembled, refined, produced, mined, or grown in the United States or in a country contiguous to the United States.

On page 1, lines 44-57, delete the text and substitute the following:

(4) "Texas product" means a product that is manufactured, assembled, refined, produced, mined, or grown in this state or in a country contiguous to this state. The term also includes crushed and broken stone, sand and gravel, shell products, slag, other construction aggregates, cement or cement clinker, or asphalt offered by entities operating in Texas without regard to where such products or materials are manufactured, produced, or mined.

On page 2, lines 24-28, delete subsection (e) in its entirety.

The amendment was read.

(President in Chair)

Senator Krier offered the following amendment to Floor Amendment No. 2:

Floor Amendment No. 3

Amend Floor Amendment No. 2 to C.S.H.B. 707 by striking the last sentence.

The amendment was read.

On motion of Senator Green, Floor Amendment No. 3 was tabled by the following vote: Yeas 16, Nays 13.

Yeas: Anderson, Armbrister, Blake, Brooks, Brown, Edwards, Farabee, Glasgow, Green, Henderson, Johnson, Lyon, Parker, Parmer, Santiesteban, Sarpalius.

Nays: Barrientos, Caperton, Harris, Jones, Krier, Leedom, McFarland, Montford, Sims, Tejeda, Washington, Whitmire, Zaffirini.

Absent: Uribe.

Absent-excused: Truan.

Question recurring on the adoption of Floor Amendment No. 2, Senator Green moved to table the amendment.

The motion was lost by the following vote: Yeas 8, Nays 19, Present-not voting 1.

Yeas: Anderson, Green, Jones, McFarland, Parmer, Sarpalius, Washington, Whitmire.

Nays: Armbrister, Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Farabee, Harris, Henderson, Johnson, Krier, Leedom, Lyon, Montford, Santiesteban, Sims, Tejeda, Zaffirini.

Present-not voting: Glasgow.

Absent: Parker, Uribe.

Absent-excused: Truan.

Floor Amendment No. 2 was then adopted viva voce vote.

On motion of Senator Green and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading viva voce vote.

RECORD OF VOTE

Senator Brown asked to be recorded as voting "Nay" on the passage of the bill to third reading.

MOTION TO PLACE COMMITTEE SUBSTITUTE HOUSE BILL 707 ON THIRD READING

Senator Green moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that C.S.H.B. 707 be placed on its third reading and final passage.

The motion was lost by the following vote: Yeas 20, Nays 7. (Not receiving four-fifths vote of Members present)

Yeas: Anderson, Armbrister, Barrientos, Blake, Brooks, Caperton, Edwards, Glasgow, Green, Johnson, Krier, Lyon, McFarland, Montford, Parmer, Santiesteban, Sarpalius, Tejeda, Whitmire, Zaffirini.

Nays: Brown, Farabee, Henderson, Jones, Leedom, Sims, Washington.

Absent: Harris, Parker, Uribe.

Absent-excused: Truan.

NOTICE OF SESSION TO HOLD LOCAL AND UNCONTESTED BILLS CALENDAR

Senator Blake announced that a Local and Uncontested Bills Calendar had been placed on the Members' desks.

On motion of Senator Blake and by unanimous consent, Senate Rule 14.1(d) was suspended in order that a Local and Uncontested Bills Calendar might be held at 8:30 a.m. tomorrow.

SENATE RULE 74a SUSPENDED

On motion of Senator Edwards and by unanimous consent, Senate Rule 74a was suspended as it relates to the House amendments to S.B. 298.

SENATE BILL 298 WITH HOUSE AMENDMENTS

By unanimous consent, Senator Edwards called S.B. 298 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

AMENDMENTS ORDERED NOT PRINTED

On motion of Senator Edwards and by unanimous consent, House amendments to S.B. 298 were ordered not printed in the Senate Journal.

Senator Edwards moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on S.B. 298 before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Edwards, Chairman; Brooks, Lyon, Sarpalius and Whitmire.

(Senator Glasgow in Chair)

**COMMITTEE SUBSTITUTE HOUSE BILL 410
ON SECOND READING**

On motion of Senator Lyon and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 410, Relating to the regulation of the practice of medicine in performing certain abortions.

The bill was read second time.

(President in Chair)

Senator Parmer offered the following amendment to the bill:

Amend **C.S.H.B. 410** as follows:

Strike Subdivision 3, Subsection d, Sec. 4.011 in Section 1 of the bill and insert in its place:

(3) that the fetus has a severe and irreversible abnormality, as identified through reliable diagnostic procedures.

The amendment was read and was adopted viva voce vote.

On motion of Senator Lyon and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading viva voce vote.

RECORD OF VOTES

Senators Caperton and Washington asked to be recorded as voting "Nay" on the passage of the bill to third reading.

**COMMITTEE SUBSTITUTE HOUSE BILL 410
ON THIRD READING**

Senator Lyon moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **C.S.H.B. 410** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 25, Nays 2.

Yeas: Anderson, Armbrister, Barrientos, Blake, Brooks, Brown, Edwards, Farabee, Glasgow, Green, Harris, Henderson, Johnson, Jones, Krier, Leedom, Lyon, McFarland, Montford, Parker, Parmer, Santiesteban, Sims, Tejeda, Zaffirini.

Nays: Caperton, Washington.

Absent: Sarpalius, Uribe, Whitmire.

Absent-excused: Truan.

The bill was read third time and was passed viva voce vote.

RECORD OF VOTES

Senators Caperton, Glasgow and Washington asked to be recorded as voting "Nay" on the final passage of the bill.

**COMMITTEE SUBSTITUTE HOUSE BILL 707
ON THIRD READING**

Senator Green moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that C.S.H.B. 707 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 24, Nays 5.

Yeas: Anderson, Armbrister, Barrientos, Blake, Brooks, Caperton, Edwards, Farabee, Glasgow, Green, Harris, Johnson, Jones, Krier, Lyon, McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Tejeda, Whitmire, Zaffirini.

Nays: Brown, Henderson, Leedom, Sims, Washington.

Absent: Uribe.

Absent-excused: Truan.

The bill was read third time and was passed viva voce vote.

RECORD OF VOTES

Senators Brown, Harris, Henderson, Jones, Leedom and Sims asked to be recorded as voting "Nay" on the final passage of the bill.

SENATE RESOLUTION 667

Senator McFarland offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, That Rule 96(a)(4), Rules of the Senate, 70th Legislature, 1987, is suspended, as provided by Senate Rule 96(f), to enable the senate to the extent described in this resolution to permit the conference committee appointed to adjust the differences between the house and senate versions of S.B. No. 245, relating to the operations and continuation of the Texas Board of Corrections, to successfully conclude the committee's deliberations, by authorizing the conferees to consider and take action by adding two appropriately numbered sections to read as follows:

(1) SECTION _____. Title 108, Revised Statutes, is amended by adding Article 6166g-3 to read as follows:

Art. 6166g-3. ACQUISITION OF REAL PROPERTY. The Texas Board of Corrections may acquire real property through purchase or through the acceptance of a gift, grant, or donation for a prison site.

(2) SECTION _____. Title 108, Revised Statutes, is amended by adding Article 6166-4 to read as follows:

The Texas Board of Corrections may contract with the Commissioners Courts of counties to utilize or lease secure correctional facilities, financed and constructed under authorization of the county, and managed by the Texas Department of Corrections.

(3) SECTION _____. Section 8, Article 42.09, Code of Criminal Procedure, is amended to read as follows:

Sec. 8. (a) A county that transfers a defendant to the Department of Corrections under this Article shall deliver to the director of the department:

(1) a copy of the judgment entered pursuant to Article 42.01 of this code completed on a standardized felony judgment form described by Section 4 of that Article[, as amended];

(2) a copy of any order revoking probation and imposing sentence pursuant to Section 8 of Article 42.12 of this code, ~~[as amended;]~~ including any amounts

owed for restitution, fines, and court costs completed on a standardized felony judgment form described by Section 4 of Article 42.01 of this code; [and]

(3) a written report that states the nature and the seriousness of each offense and that states the citation to the provision or provisions of the Penal Code or other law under which the defendant was convicted;

(4) a copy of the victim impact statement, if one has been prepared in the case under Article 56.03 of this code;

(5) a statement as to whether there was a change in venue in the case and, if so, the names of the county prosecuting the offense and the county in which the case was tried;

(6) a copy of the record of arrest for each offense;

(7) information regarding the criminal history of the defendant;

(8) a copy of the indictment or information for each offense; and

(9) a checklist sent by the department to the county and completed by the county in a manner indicating that the documents required by this subsection and Subsection (c) of this section accompany the defendant.

(b) The Department of Corrections shall not take a defendant into custody under this Article until the director receives the documents required by Subsections [Subsection] (a) and (c) of this section.

(c) A county that transfers a defendant to the Department of Corrections under this Article shall also deliver to the director of the department any presentence investigation report, probation revocation report, [or] psychological or psychiatric evaluation of the defendant, and available social or psychological background information relating to the defendant, and may deliver to the director any additional information upon which the judge or jury bases the punishment decision.

(d) The Department of Corrections shall make documents received under Subsections (a) and (c) of this section available to the Board of Pardons and Paroles on the request of the board or its representative.

(e) A county is not required to deliver separate documents containing information relating to citations to provisions of the Penal Code or other law and to changes of venue, as otherwise required by Subsections (a)(3) and (a)(5) of this Article, if the standardized felony judgment form described by Section 4 of Article 42.01 of this code is modified to require that information.

(f) Except as provided by Subsection (g) of this section, the county sheriff is responsible for ensuring that documents and information required by this section accompany defendants sentenced by district courts in the county to terms of confinement in the Texas Department of Corrections.

(g) If the presiding judge of the administrative judicial region in which the county is located determines that the county sheriff is unable to perform the duties required by Subsection (f) of this section, the presiding judge may impose those duties on:

(1) the district clerk; or

(2) the prosecutor of each district court in the county.

These amendments are needed to allow the Texas Board of Corrections to construct and contract for new facilities in an expeditious manner.

The resolution was read.

Senator Farabee offered the following amendment to the resolution:

Floor Amendment No. 1

Amend S.R. 667 by adding subdivisions (4) to read as follows:

(4) Out of the funds appropriated to the Texas Department of Corrections in S.B. 1, 69th Legislature, Third Called Session, the Department is authorized, effective immediately, to transfer any unexpended balances in any program item to enter into contracts with private vendors under Article 6166g-2.

The amendment was read and was adopted viva voce vote.

Senator Farabee offered the following amendment to the resolution:

Floor Amendment No. 2

Amend S.R. 667 as follows:

(1) Strike SECTION _____, Title 108, Revised Statutes Article 6166-4 on lines 19-21, and substitute the following in lieu thereof:

"The Texas Board of Corrections may contract with the Commissioners Courts of counties to utilize, lease-purchase, purchase on an installment contract, or otherwise acquire secure correctional facilities, financed and constructed under authorization of the county, and managed by the Texas Department of Corrections."

(2) Insert the following appropriately numbered section to read:

"SECTION . REVIEW OF LEASE-PURCHASE. Any lease-purchase, installment contract, or similar agreement entered into by the Texas Board of Corrections is subject to review by the attorney general, as provided for by H.B. 2514, Acts of the 70th Legislature, and to review and approval by the Bond Review Board, as provided for by S.B. 1027, Acts of the 70th Legislature, notwithstanding the amount of the lease-purchase agreement or the length of time."

The amendment was read and was adopted viva voce vote.

The resolution as amended was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Truan.

CONFERENCE COMMITTEE ON HOUSE BILL 791

By unanimous consent, Senator Green called from the President's table for consideration at this time the request of the House for a Conference Committee to adjust the differences between the two Houses on H.B. 791 and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on H.B. 791 before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Green, Chairman; Henderson, Lyon, McFarland and Whitmire.

SENATE RULE 74a SUSPENDED

On motion of Senator Farabee and by unanimous consent, Senate Rule 74a was suspended as it relates to the House amendments to S.B. 257.

SENATE BILL 257 WITH HOUSE AMENDMENTS

By unanimous consent, Senator Farabee called S.B. 257 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

AMENDMENTS ORDERED NOT PRINTED

On motion of Senator Farabee and by unanimous consent, House amendments to **S.B. 257** were ordered not printed in the Senate Journal.

Senator Farabee moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **S.B. 257** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Farabee, Chairman; Brooks, Edwards, McFarland and Zaffirini.

CONFERENCE COMMITTEE ON HOUSE BILL 2445

By unanimous consent, Senator Harris called from the President's table for consideration at this time the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 2445** and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **H.B. 2445** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Harris, Chairman; Armbrister, Brown, Santiesteban and Sims.

SENATE RULE 103 SUSPENDED

On motion of Senator Jones and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Finance might consider **H.J.R. 60** upon recess today.

SENATE RULE 103 SUSPENDED

On motion of Senator Parmer and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Intergovernmental Relations might consider the following bills upon recess today:

H.B. 2611

H.B. 2269

SENATE RULE 103 SUSPENDED

On motion of Senator Harris and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Economic Development might consider **H.B. 620** at 8:30 a.m. tomorrow.

**CONFERENCE COMMITTEE REPORT
HOUSE BILL 2243**

Senator Edwards submitted the following Conference Committee Report:

Austin, Texas

May 28, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on H.B. 2243 have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

EDWARDS
GREEN
PARKER
MONTFORD
SARPALIUS

On the part of the Senate

P. HILL
VOWELL
GRANOFF
A. HILL
GUERRERO

On the part of the House

The Conference Committee Report was read and was filed with the Secretary of Senate.

SENATE RULE 103 SUSPENDED

On motion of Senator Brooks and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Health and Human Services might consider H.B. 2299 upon recess today.

MOTION TO RECESS AND ADJOURN

On motion of Senator Brooks and by unanimous consent, the Senate agreed to take recess until 8:30 a.m. tomorrow. The Senate further agreed to adjourn at the conclusion of the Local Calendar Session until 10:00 a.m. tomorrow.

MEMORIAL RESOLUTIONS

H.C.R. 231 - (Jones): Memorial resolution for Frank Mayborn.

S.R. 664 - By Brooks: Memorial resolution for Thomas H. Pursley.

S.R. 665 - By Brooks: Memorial resolution for Paul Francis DeSanto.

WELCOME AND CONGRATULATORY RESOLUTIONS

S.R. 659 - By Zaffirini: Extending congratulations to Mrs. Lida Fowler Ivie on the occasion of her 107th birthday.

S.R. 660 - By Leedom: Commending Melvin Doyle McBee.

S.R. 661 - By Leedom: Expressing appreciation to Wynonna Jeanette Parker Fallwell.

S.R. 662 - By Johnson: Extending best wishes to the students chosen to attend NAACP's Afro-Academic, Cultural, Technological and Scientific Olympics in New York.

S.R. 663 - By Krier: Commending Marjorie Smelstor.

S.R. 666 - By Anderson: Extending welcome to Dr. Chuck Jones, Capitol Physician for the Day.

S.R. 669 - By Barrientos: Commending Captain Wilford Swinney.

S.R. 670 - By Barrientos: Commending Eleazar Garza.

RECESS

On motion of Senator Brooks, the Senate at 4:11 p.m. took recess until 8:30 a.m. tomorrow.